



THE LEGAL RIGHTS OF ILLINOIS VETERANS

What every Illinois veteran, or dependent or survivor of a
veteran, should know about the federal and state benefits
to which they are entitled by law.

THE VETERANS RIGHTS BUREAU
OFFICE OF THE ILLINOIS ATTORNEY GENERAL
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Warning

The contents of this book are not provided for purposes of giving legal advice to the reader. The contents are for informational purposes only and the office of the Illinois attorney general does not assume responsibility for the accuracy or veracity of the reports or studies summarized herein nor does this publication represent a legal opinion of the office. The purpose of this publication is to provoke thoughtful analysis by veterans who are involved in pursuing benefits before the U.S. department of veterans affairs, the Illinois department of veterans affairs or any other federal or state agency that administers any type of veteran benefit or right. Cautionary messages, questions, legal cases or pitfalls presented in this book are not the only legal issues to be considered. Reading this book is a good beginning, but veteran service officers of the various veteran organizations are the best source of assistance in making an informed decision about obtaining veteran benefits or in learning about changes in veterans law. The final authority on veteran rights is the agencies administering the benefits sought and, in the case of benefits administered by the U.S. department of veterans affairs, the court of veteran appeals.

You may contact the office of the Attorney General for a copy of this “The Legal Rights of Illinois Veterans” handbook:

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**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

June 8, 2004

**Lisa Madigan
Attorney General**

Dear Veteran:

Your dedication to serving our nation in the Armed Forces, has earned you a number of rights and benefits.

The purpose of this book is to help you secure those rights and benefits to which you are entitled. It will give you a better understanding of:

- Guidelines for determining eligibility.
- Benefits that are available for service disabled veterans and their families.
- How to apply for benefits and if necessary how to appeal a denial of benefits.
- How to get help if you run into problems.

The rights and benefits available to you and your dependents or survivors were won by you and past generations of veterans. In order to preserve veterans' rights for future generations, you must be vigilant. As Attorney General, I am committed to working with the veterans of this state to guarantee that your rights and benefits are maintained.

Sincerely,



**Lisa Madigan
Attorney General**

INTRODUCTION

This edition of the Legal Rights of Illinois Veterans has been re-written and re-formatted. Most notable is that it is now available both online and in print. The online version is hyperlinked to the internet and to topics within the book. Those reading the printed version will note that there are words and phrases that are underlined these underlined words and phrases will appear in blue when viewing the online version. The blue underline means that the word or phrase is hyperlinked. We have done this because more and more veterans are viewing our on line version. Hyper- linking to the internet and within the book makes it much easier for the reader to research the various topics discussed.

The reader will also note that the word veteran is used throughout the book. This should be taken by the reader to mean both veterans, dependents and others such as advocates. Because this book is addressed mostly to veterans and the benefits discussed in the book are because of veterans and their service to our nation we thought it appropriate to use the word veteran in those places where the benefit being discussed would be interchangeable with veterans, dependents, survivors and advocates.

Those who have had previous versions of the Legal Rights of Illinois Veterans will find that this book lacks several chapters found in the previous editions. We wanted to print the book in a larger type for ease of reading. We also wanted to go a little more in depth on the benefits discussed. As a result we decided to break the old Legal Rights book into three separate books. The first, this one is an introduction to veterans benefits and contains the chapters on Health Care, Compensation and Pension and How to Appeal a Denial of Benefits. The second book will contain chapters that address benefits for Dependents and Survivors, the last book will contain chapters on Education, Discharge Upgrades, and miscellaneous benefits. At this writing we are still adjusting the contents of the Legal Rights Books. Should you have suggestions or comments on the new format please do not hesitate to contact our office. We wish to make this series of books on veteran rights easy to read while at the same time informative. Please send any comments to:

Veteran Rights Bureau
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CHAPTER ONE
ELIGIBILITY FOR BENEFITS
(Revised March 2003)

FEDERAL BENEFITS (VA)

INTRODUCTION

Generally there are two parts to determining a veteran's entitlement to a benefit, eligibility and entitlement. Eligibility is established by meeting certain **service criteria**. Once the military service criteria is met the veteran must then meet an **entitlement criteria**. Entitlement criteria depends upon the benefit sought and the current circumstance of the person applying for the benefit.

The purpose of this chapter is to discuss how the U.S. Department of Veteran Affairs, (VA) and Illinois Department of Veteran Affairs (IDVA) establish both eligibility and entitlement for benefits. This process is the cause of much consternation for veterans who do not understand the process. It is hoped that reading this chapter give the reader a better understanding of how the VA and IDVA decide a claim for benefits.

Eligibility and Entitlement

The veteran must be both eligible and entitled to receive benefits. Eligibility means that the applicant meets specific service requirements. Being entitled to a benefit means meeting certain personal requirements. Both service requirements and personal requirements are established by law and VA or IDVA regulation.

Determining Eligibility--A Three Step Process

Requirements Based On Military Service

Type of Discharge

Determining eligibility based upon service dates or type of discharge is the easiest criteria to check. All the information needed is on the DD 214 or discharge papers. The first eligibility requirement for VA benefits is a discharge or release from service under "other than dishonorable conditions." This means the discharge must be one of the following:

- * Honorable Discharge
- * General Discharge (under honorable conditions)
- * Hardship Discharge
- * Medical Discharge

"Bad Paper" discharges (i.e., Dishonorable, Bad Conduct, Undesirable, and "other than honorable") are usually a bar to all veterans benefits. Many veterans who have accepted a less than honorable discharge were either told or led to believe that it would automatically be upgraded after six months. This was especially true during the Vietnam Era. In any case this is a myth and is untrue. The only way to receive an upgrade is to apply for one.

Type of Service

Eligibility for most benefits requires “active duty.” Membership in a Reserve Component or the National Guard, even when such service includes extended periods of "Active Duty for Training," does not meet the requirement for active duty. However, those who serve on active duty with the Guard or Reserve, are considered to be on “active duty.” In recent years the Guard and the Reserves have been activated several times. Each of these activations are considered active duty. Nevertheless the time requirements for certain benefits still apply. For details on circumstances which make members of reserve and guard components eligible for benefits, see "[Exceptions and Limitations](#)" and "[Death While on Active Duty](#)" later in this chapter.

Length of Service

A specified minimum length of service is an eligibility requirement for all benefits. The length of time varies depending upon the veteran's dates of service and the benefit.

*** Veterans Who Enlisted on or After September 7, 1980** must complete a minimum of 24 months of active duty to be eligible for any VA benefit unless released for a service connected disability found generally at, [38 C.F.R. § 3.12 \(a\)](#) Minimum active-duty service requirements.

*** Veterans Who Were In Service Before September 8, 1980** must complete varying minimum lengths of active duty service to be eligible for different benefits. For example, to be eligible for medical benefits, the minimum length of active duty service for any veteran is 1 day. Eligibility for a G.I. Loan requires a the minimum length of service, for a Vietnam Era Veteran 90 days is required. Other benefits may require a minimum of 12 months or more.

Service Connected and Nonservice connected disability

Service Connected

A key term in determining eligibility for disability compensation as well as for medical and other benefits. **Service connected means that the VA has recognized that the veteran's disability occurred or had its origins while on active duty and was not the result of willful misconduct.**

VRB-Tip: If you are currently on active duty, including members of reserve components, you should report and seek treatment for any wound, injury, or other medical condition which occurs or is aggravated while on active duty. You should also obtain a copy of all examination and treatment records. When you are released from active duty or active duty for training (including weekend drill), you should file a claim for service-connection with the VA.

Being service connected is becoming more important every year especially in the area of medical care. Additionally veterans who are service connected are eligible for more benefits than

veterans who are not service connected. Many times length of service requirements are waived for service connected veterans. Service connected veterans have a higher priority in receiving medical treatment. Also, veterans whose service connected disabilities are rated at 30% or more may receive greater amounts of compensation if they have dependents. In addition, dependents of 100% service connected veterans, or their survivors, may be eligible for health care, educational, and many other benefits, as well as for military base commissary and exchange privilege.

VRB-Tip: Veterans who experience medical or psychiatric conditions, shortly after discharge, which they feel is the result of military service should contact a VA regional office for a claim, or they should go to a VA medical center for treatment. If this is not practical, a private physician should be consulted, and a copy of all medical records should be kept. The veteran should submit the medical records along with a claim to the VA to apply for service connection of that condition and/or for possible future use in proving service connection.

Death While on Active Duty

If an individual dies while on active duty or as a result of active duty (including members of Reserve Components who die while attending a scheduled drill or on Active Duty for training or as a result of such drill or training), his/her surviving spouse and/or dependents become eligible for death benefits such as compensation, educational assistance, health care, commissary and base exchange privileges.

Non-Service Connected

Non-service connected is defined as any condition that is not directly traceable to military service or to a service connected disability.

Special Requirements Based On Present Circumstances

By "present circumstances," we mean the circumstances at the time of application for a benefit. In many cases, the VA will expect the veteran or dependent to provide documentary proof that the special requirements are met. Some examples of special requirements are:

Current Financial Situation

Income below a minimum prescribed by law is an eligibility requirement for non-service connected health care, non-service connected disability pension and other benefits. Conversely, a good credit record and ability to repay are requirements to obtain, a VA guaranteed home loan.

Current Health Situation

Eligibility for health care, requires that the VA recognize the veteran's condition as one requiring treatment. Compensation or pension requires a determination as to the degree a disability

is disabling (i.e., preventing the veteran from pursuing gainful employment).

Current Employment Situation

The veteran must be unemployed between certain dates to be eligible for unemployment compensation. Members of the Guard or Reserve program or who are returning from active duty have re-employment rights.

Current Status of Survivors and Dependents

Surviving spouses of deceased veterans must not have remarried, and dependents must meet age and dependency requirements.

Current VA Approval of Education or Training Institutions

Eligibility for educational assistance requires that the institution in which the veteran enrolls be currently approved by the VA.

Exceptions and Limitations

VA regulations are full of phrases such as: "Provided that," "only when," "except in cases where," "so long as," etc. These phrases often call attention to a factor which provides an exception or limitation to a general rule of eligibility. Some examples of exception or limitation are:

A "Delimitation" Date

The period of time after discharge which a veteran has to take advantage of a benefit, or it may be the permanent cut-off date of the benefit itself.

Continuous Service

A continuous period of active duty without a break for any reason. The eligibility for a certain benefit may require a continuous period of active duty (i.e., 24 months of continuous service for educational benefits).

"Bad Paper" Discharges

"Bad Paper" Discharges result in ineligibility for many or all veterans benefits. Some significant exceptions are as follows:

- When the holder of the bad paper discharge has a previous "under conditions other than dishonorable" discharge for a prior period of service;
- When eligibility is restored because the veteran has applied for and received an upgraded

discharge

- The VA may review a "bad paper" discharge and find the veteran eligible for benefits. Such cases are extremely rare and carefully scrutinized by the VA.

Special Status of the Service Connected Disabled Veterans

Veterans in this category are eligible for virtually all veterans benefits regardless of limitations on length of service, dates of service, etc. They are also eligible for other veterans benefits that non-service-connected veterans are not. Members of the Reserve Components who become service-connected disabled while attending scheduled drills or on Active Duty for Training may be eligible for health care, disability compensation and death benefits.

Maintaining Eligibility

Many veterans, dependents and survivors find their benefits stopped because they violate VA rules for maintaining benefits. Examples of ways eligibility may be lost are as follows:

Education Benefits

May be stopped if the institution in which the veteran is enrolled loses its VA approval, or if the veterans grades or course load fall below the minimum requirements.

Pension Benefits

A veteran receiving a non-service-connected pension who earns or otherwise acquires additional income may lose part or all of his pension depending upon the amount of the additional income.

Survivors Benefits

When the surviving spouse re-marries, he/she is no longer eligible for survivors benefits.

Compensation and Pension Benefits

Veterans must comply with VA instructions regarding when and where to appear for physical examinations, observation or treatment.

There exists one more reason for maintaining eligibility. If a veteran or dependent becomes ineligible, not only will the benefit stop, but the VA will demand that the veteran or dependent pay back any money it paid before it noticed the ineligibility. While there is recourse for those caught in this dilemma it is much wiser to avoid the situation.

STATE BENEFITS (IDVA)

Eligibility and Entitlement

The relationship between "eligible" and "entitled" is the same for state benefits as it is for federal benefits, except submission of proof of eligibility goes to the IDVA rather than the VA.

In general, the eligibility requirements for state benefits take into consideration the same three factors as for federal benefits but add a fourth, a residency requirement. Here are a few key highlights of IDVA's eligibility requirements.

Requirements Based on Military Service

The IDVA uses the same guidelines and definitions of eligibility based on service as does the VA. Illinois residency is required to obtain state veterans' benefits. To be eligible for some benefits a veteran must have been a resident of Illinois at the time of entrance into the service. For others, the requirement is residency both before and after service.

Special Requirements Based On Present Circumstances

There are state benefits for which the present circumstances of the veteran, survivor, or dependent are weighed to determine eligibility. These circumstances usually relate to the need of the applicant. For example:

Admittance to Illinois Veterans Homes

The IDVA operates [veterans homes](#) at Quincy, La Salle, Anna and Manteno. Residents of the Illinois Veterans Homes may be charged a monthly maintenance fee of 90% after the first \$80 of their income to a maximum of \$929. Many pay the maximum, many others pay a percentage of this amount, still others pay nothing. To determine the veteran's payment arrangement, his/her financial situation is carefully reviewed.

COUNTY BENEFITS

Indigent Veteran and Family Assistance

Indigent Veteran and Family Assistance is administered by the County Veterans Assistance Commissions (VAC) or local veteran organizations in counties where a VAC doesn't exist.

- * Assistance to ensure that indigent veterans (and their families) who are victims of burn-outs, flood-outs or are unemployed, have the basic necessities of life

- * A burial allowance and the designation of responsibility for proper funeral arrangements for indigent veterans or members of their immediate family.

Exceptions and Limitations

There are few exceptions and limitations for county benefits as most focus on the veteran's need. All VAC's recognize the standards of indigence as set fourth by the Illinois Department of Public Aid.

SUMMARY

You must meet certain requirements to be eligible for a veteran's benefit, although the specifics vary depending upon the benefit in general. There are two types of eligibility requirements: those based on military service and special requirements based on present circumstances. If a review of both requirements indicates the veteran or dependent is eligible for a certain benefit, then before filing a claim, check further to make sure there are no limitations that will prevent the obtaining of the benefit sought. If the requirement review shows that the applicant is not eligible for a certain benefit, before giving up, make sure there are no exceptions that would establish eligibility.

Once submitted, the receiving agency (the VA or the IDVA) will verify eligibility and review the claim. If anything is needed to further establish the eligibility for a benefit, the agency will notify the applicant. If benefits are denied the agency will inform the advocate and the applicant of why the benefit was not awarded. If the veteran or the advocate disagree, the denial may be appealed

Finally, once a veteran or dependent is receiving a benefit, be sure that they are advised to protect themselves from an unexpected cut-off and/or an overpayment by maintaining eligibility. This is a simple matter of knowing the rules that govern eligibility and following them. Always remember, it is the veteran's responsibility to follow-up on the claim and to keep the VA or IDVA up to date on any changes that might effect eligibility

CHAPTER TWO

HOW TO APPLY FOR BENEFITS

(Revised March 2003)

INTRODUCTION

The purpose of this chapter is to explain how to apply for federal and state veterans' benefits. This action is called "making a claim." The steps a veteran should take to ensure that the claim is processed promptly will be discussed. The reader will also learn the procedures the VA or the IDVA will follow in processing the claim.

FEDERAL BENEFITS (VA)

Where to apply

Depending on the type of a benefit, an application may be made to one of three types of VA facilities.

Medical benefits. Apply at the nearest VA hospital or outpatient clinic.

Psychological Readjustment including sexual trauma counseling. Apply at the nearest Vet Center or VA medical facility

All other benefits administered by the VA. Apply to a VA Regional Office (VARO).

There are four ways to apply to the VA for benefits:

- ✎ Apply by visiting a VA Regional Office (VARO) or, for medical/psychiatric care, a VA Medical or Vet Center;
- ✎ Getting and filling out the appropriate form and sending to the appropriate office a VA Regional Office or Hospital
- ✎ Now, with the advent of the internet an application may be made on line at http://vabenefits.vba.va.gov/vonapp/about_vonapp.asp this site will walk an applicant through the process step by step.
- ✎ By writing the VA a letter (this would be an informal claim);

A dependent or survivor may apply for a benefit on behalf of a veteran, in one of the ways given above, this is usually done when the applicant is unable to complete the application because of being incapacitated. Application may also be made by an appointed representative, usually a Veteran Service Organization, (VSO). There are two types of third party assistance:

Administrative. The third party helps determine eligibility and fills out the proper form, checks it for accuracy and completeness and forwards it to the VA.

Representational Assistance (advocacy) . The third party not only takes care of the administrative details, but follows through, further developing the case and if necessary by representation, (i.e., serving as the applicant's advocate in hearings and/or appeal proceedings.) There are many [Veteran Service Organizations](#) available to assist veterans in the claims and appeals process.

Facts the VA Needs to Process a Claim

Veterans or dependents should be ready to supply the VA with the following information when making a claim; Name and address; Telephone Number, Social Security number; date and place of birth and the branch of military service. The VA may also ask if the veteran has a "C" number. "C" numbers were the claim numbers issued years ago before the VA started using the Social Security number as the Claim Number.

On occasion it may be necessary to provide detailed information on military service. Such information may include; the service serial number, (these were issued to service members prior to 1969); dates of military service; the unit served with while in combat or when the claimed injury occurred. The veteran may also be asked to write the dates that certain incidents occurred.

All of the above information may be found, (except a VA "C" number) on the veteran's DD 214 or other military separation papers. If separation papers are not available, the VA may request military records with only the veteran's name, Social Security, military Serial number, and branch of service. This, process will take time, and may delay the processing of the claim.

Visiting the VA Regional Office

Should the veteran or dependent visit a VA Regional Office he/she will be able to talk directly to a VA representative. This is a good way to clarify the requirements for the benefit sought and to be informed as to the evidence needed. Additionally application for the benefit may be completed on the spot this will establish the effective date of the award. It is helpful, although not necessary, to bring a copy of the veteran's DD 214, the separation form referred to earlier, or the discharge papers, if a World War II or Korean War veteran. The VA will routinely run a check on military records anyway, but if the documents are available to the VA they are more likely to begin processing the claim. Also, the sooner the claim is filed, the earlier effective date. Remember the date benefit starts is the date the claim was submitted. It is not, as some think, the date the veteran separated from the military. The only time that is true is when a claim is filed within one year from the date of separation. Lastly, because of heightened security at all federal buildings, including the VA. The VA now requires a photo identification card and will require that all visitors walk through a metal detector.

The Initial Interview

If the veteran wishes to deal with the VA without the assistance of a third party representative the first contact will usually be with a Veterans Benefits Counselor (VBC) at a VA Regional Office or VA Medical Center. In the interview, the veteran and the VBC will exchange information concerning the benefit sought. The veteran should have all pertinent information, (i.e., marriage certificates, divorce decrees, discharge papers, doctors' reports, proof of school attendance, financial information, if applying for pension) in other words bring anything that may help the VA in proving eligibility for the benefit. During the interview, the veteran will be asked to provide facts regarding service, and some details on the current situation as it relates to the benefit.

The interviewer will assist the veteran with completing a claim form for the benefit sought. This is known as making a formal claim. The VA will then start processing it. The VA may do the following in development:

- ✎ Request military service medical records, (SMRs) and the Military Personnel Records know as the 201 file, to include the Form 20.
- ✎ Ask that the veteran submit to a compensation/pension examination at a VA Medical Center.
- ✎ Ask the veteran to sign a release of information so that they can get medical evidence from the veteran's private healthcare providers.
- ✎ Ask that the veteran write a "stressor letter" if the claim is for post traumatic stress disorder.
- ✎ Request the veteran supply any other information needed.

Telephoning the VA

The VA now uses a nationwide generic telephone number, 1- (800)-827-1000. If called in Illinois, it will connect the caller to the Chicago Regional Office. After going through a menu driven system to direct the call appropriately the caller will finally get a Veterans Specialist. Patience is a virtue especially when calling the VA. The specialist will answer questions relating to the benefits administered by the VA and questions relating to a claim. Whenever the veteran has a conversation with a VA official (either by telephone or visit), or, for that matter, a veterans advocate, be sure to jot down a simple memorandum of the conversation. This memo should include the name of the person talked to, the date and time of the meeting and a summary of the discussion, especially any "next step" or action promised or agreed to by the VA, even if it is only a claim form to be sent. In the event that the VA later denies the claim and the veteran wishes to appeal, these notes might prove helpful.

Writing to the VA

It is not necessary to address a letter to the VA to a specific person, unless directed to do so. Upon receipt of a letter the VA mail room staff will route the letter to the appropriate section for processing. The reply to the letter will depend upon how the letter was written.

When corresponding with the VA about a benefit always follow the old service adage, K.I.S.S. - "Keep it Simple Soldier." If the letter is short and confines itself to one or two points the veteran will probably get a clear answer. If, however the letter is long and rambling, with the question somewhere in the middle, it is unlikely that the person writing the reply is not going to take time to figure it out. Instead, a form letter requesting specific information will be sent, even though that information was in the letter -- somewhere. If the letter is hand written be sure to write legibly.

Any letter to the VA about a benefit should include:

- ✉ The VA file or "C" number and other identifying information. The Claim number should be on the top of each page of the letter.
- ✉ The name, address and telephone number of the Veteran.
- ✉ A clear statement of the issue of concern or the benefit sought.

If it is the first letter to the VA, also indicate the social security number, branch of service, military serial number, date and place of birth, and dates of service. Once again, the most convenient way to provide this data is by including a certified copy of the DD 214 or discharge certificate.

Be sure to date letter, something many veterans overlook. The VA considers any letter of inquiry from a veteran about a benefit an "informal claim". Which means if the benefit is later awarded, the effective date of the benefit (in the case of financial assistance, the date from which the VA is obligated to pay), may be the date the VA received the first letter or "informal claim".

Application Made by Dependents

Dependents of a veteran can make an application for benefits on behalf of the veteran (for example, if the veteran is incapacitated). Dependents can also make direct application for benefits to which they are entitled.

Dependents should provide the basic facts required by the VA as indicated earlier. Because service record data is often unknown to dependents, make sure that this information or a copy of the veteran's DD 214, is included among important family papers. Dependents will also need to furnish documents proving their relationship with the veteran. These "proof" documents may include a copy of the veteran's death certificate, marriage certificate, divorce decrees and any other paper that may prove the veteran's or the dependent's claim.

When the Claim Requires "Development"

The VA has always been mandated to assist veterans in the development of their “well grounded” claims. Now, with the passage of “Veterans Claims Assistance Act of 2000” the VA is mandated by law to reasonably assist a claimant in the claims process. This is commonly known as the VA’s “Duty to Assist”¹ there will be more on this mandate latter in the book.

Veterans may receive a letter from the VA asking for additional information. The VA calls this "claim development.” They may ask:

- ✎ For more facts and details about the veteran;
- ✎ For additional documents. Which could include marriage license, birth certificates, employment records, school records, medical records, etc.;
- ✎ If applying for compensation or pension benefits, to appear for a medical examination or psychiatric evaluation.

Whatever the VA requests if the veteran does not comply, it will damage the chances of getting the benefit. Provide the VA with the information they request and if the VA sets up an interview or medical appointment, be there, and be on time but be prepared to wait.

If the information requested is not provided or if the veteran fails to show up for a scheduled appointment, the VA will stop processing the claim. The VA interprets this failure to comply with their request as, "abandonment of the claim.” This means that they may assume the veteran is no longer interested in obtaining the benefit.

When a Claim is Approved

If the benefit sought is awarded, the VA will send an award letter. Attached to the letter will be a Rating Decision explaining what evidence the VA considered in rating the claim and the “Reasons and Basis for the Decision.” Read this very carefully it is very important to understand how and why the decision was made, even if the claim was won. The letter will also explain, though not as in great a detail as the Rating Decision, why the benefit was awarded, the percent of disability and the amount per month. It will also contain instructions, **read them**. Many veterans and their families have suffered an over payment of benefits or lost benefits because they failed to read the instructions that came with the award letter. For example should the veteran be awarded nonservice connected pension, the letter will contain instructions that any new income must be reported to the VA.

¹38 C.F.R. § 3.159 Department of Veterans Affairs assistance in developing claims.

When the Claim is Denied

The veteran will receive a letter from the VA stating that the application for the benefit has been denied. As stated above it is very important to read very carefully the attached Rating Decision. The decision will explain what evidence the VA considered. Make sure all the evidence submitted was listed under the evidence section. The decision will also have a "Reasons and Basis" section giving the reasons for the decision. In this area each piece of evidence in the evidence section should be discussed, if it is not such should be noted if an appeal be filed.

If the applicant believes the VA's decision was wrong, a "Notice of Disagreement," (NOD), the first step in the appeal process, should be completed. The NOD is the first step in the appeal process. The NOD should may be as long or as short as the claimant wishes. It could be as simple as, "I disagree with the Rating Decision send me a Statement of the Case." or may include a statement as to why the claimant disagrees with the decision. A statement of this type should address each issue under consideration. It should discuss the way evidence submitted was considered. A claimant may wish to address the length of the compensation and pension examination or what was discussed in the examination. The claimant may also submit new evidence with the NOD to help prove the case.

When the VA receives the NOD they will review the case. They may, as an example, reconsider certain pieces of evidence, consider evidence submitted but not listed in the decision, request a new examination. Should they continue to deny the claim they will issue a "Statement of the Case" (SOC). The SOC is a restatement of the Rating Decision and a chronology of the claim.

If the applicant continues to disagree with the VA's decision then the appeal is continued by completing the **VA Form 1- 9, Appeal to the Board of Veteran Appeals**, enclosed with the SOC. Submitting this form is called perfecting the appeal. The form offers the applicant another opportunity to state the case. It also offers an opportunity to:

- (a) Have a personal hearing in Washington D.C. before the Board of Veteran Appeals.
- (b) Have a personal hearing at the VA Regional before the Traveling Board of Veteran Appeals.
- (c) Have a hearing using the VA's video conferencing techniques. (This is like a personal hearing except the Board member is in Washington and the applicant is at the Regional Office.)
- (d) Or the applicant may choose to just have the appeal considered on the evidence of record and the statements by the veteran and appointed representative.

When Notification is Delayed

When a benefit claim is submitted, the VA is obligated to notify the veteran that the benefit has been awarded or denied, or to request further development of the claim "within a reasonable time." Although the length of time actually required may vary depending upon the benefit. If the veteran has had no contact from the VA after four months, an inquiry should be made for the status of the claim. A backlog in case processing is a constant problem. At this writing some veterans are waiting over six months just to have their claim considered for the first time.

What to do if the claim is delayed

There are several options open to a veteran or advocate who wants to inquire about the status of a claim. A letter could be sent asking for a status of the claim. The veteran may call the VA toll-free at 800- 827-1000 and ask for a status report or if a Veteran Service Officer, (VSO) is handling the claim contact should be made to inquire. Many times a VSO can get an instant up date on the claim and it's location.

The veteran may choose to visit the VA counselor who helped file the claim. When making this follow-up contact, be wary of answers such as, "These things take time," or "It's just routine." The claim may be stuck. Try to find out what has happened to the claim, where the claim is now, and when the determination will be made. This is a good time to have a good quality veteran service officer. Most of the time these people can explain exactly what is wrong or what needs to be done to get the case moving. They have access directly to adjudication and the rating specialist and can talk face to face with the person processing the claim.

Many veterans and dependents become very frustrated when the claim is not awarded quickly. Sadly the VA often takes months to get the first decision processed. In the case of contested claims it may actually take years to get a final decision. It is important to not take this frustration out on the person trying to provide assistance. Claims for the most part are processed in the order received and there are thousands of claims. Calling constantly, writing a lot of letters or constantly asking your representative to inquire about the claim may actually have a negative effect. Each inquiry causes the claim file to be pulled from it's location so that an answer may be given. This may actually delay the processing. Persistence is a must when dealing with the VA. Keep inquiries to a minimum.

If however the claim has gone on for some time without a decision or contact by the VA then other steps may be required. This may include appointing a Veteran Service Organization as your representative or making a personal visit to the Regional Office to talk with someone who actually knows about your claim.

Illinois Department of Veteran Affairs Benefits(IDVA)

The procedure for applying to the Illinois Department of Veterans Affairs for benefits is generally the same as when applying to the VA. The most significant difference is that the veteran may use the IDVA to apply for either U.S. or State of Illinois benefits. IDVA field officers are knowledgeable about both State and Federal benefits. Their offices are well stocked with appropriate U.S. and State benefit application forms. Since the IDVA has approximately 50 Field Offices many claimants prefer to take their federal benefit business to the IDVA rather than to one of the few VA facilities. If a veteran is interested in a federal benefits, IDVA Service Officers are able to council on the specifics and review your qualifications. They can fill out the appropriate State of Federal veteran benefits forms and get them to the appropriate office. The IDVA will need the same basic information for which the VA asks. Those who have a computer with internet access, (many libraries have computers that are hooked up to the internet) may directly access the IDVA's web site and see all state benefits and the location of all IDVA field offices and Veteran's Homes. The address is <http://www.state.il.us/agency/dva/benefits/>

VRB-Tip: Do not let the field service officer pre-adjudicate your claim. You always have the right to file and let the VA or IDVA make the decision. Sadly some service officers will refuse to file a claim if they think you are not eligible. Remember it's your claim and you have the right to a formal consideration by the agency to which you are applying.

SUMMARY

Veterans and dependents who go to the VA or to the IDVA for benefits have a right to expect courteous, prompt, efficient service. At the same time, the veteran's cooperation in providing the VA or the IDVA with the information they request is essential to having your claim processed. If any problem is encountered in dealing with the VA or IDVA, and if it cannot be resolved with the VA counselor or IDVA field officer the Veteran Service Organizations are a great source of help.

CHAPTER THREE

SOURCES OF HELP IN OBTAINING BENEFITS

(Revised March 2003)

THE KINDS OF HELP NEEDED

There are two kinds of help veterans need when they decide to claim a benefit: administrative assistance or representational (advocacy) help.

Administrative Assistance

The veteran needs administrative help when the problem is one that can best be solved with technical or interpretive assistance. A few examples of the kinds of problems that might require administrative assistance are:

- ☞ **Help In Filling Out A Form**
- ☞ **Help In Resolving Conflicting Information:** A buddy says the veteran is eligible for VA medical treatment, but according to a pamphlet the veteran reads, he/she is not.
- ☞ **Help In Getting Back Up "Through The Crack":** The VA notified the veteran months ago that his/her educational benefits were approved, but the veteran has yet to receive the first check. The veteran has written and called, but has not received a satisfactory response. The veteran needs someone who knows the system to check into it.

Representational (Advocacy) Help

The veteran needs representational help when the problem is more complex, requiring representation in a matter before the VA or other government agency. It is assistance that is more "professional" in nature, the type of help that might be provided by an experienced Veterans Service Officer, a trained Veterans' Advocate or a lawyer. Here are some examples of the problems that might require representational assistance.

- ☞ **Help In Appealing Denial Of A Claim:** The veteran's claim was turned down. The veteran believes the claim was justified. The veteran needs a representative to work on the appeal with him/her.
- ☞ **Help In Getting Service Connected Disability Compensation Long After Discharge:** The veteran is sure his/her present condition is traceable to an injury in service, but does not know how to build his/her case.
- ☞ Veteran was notified that an **overpayment** has been created and wants to apply to the board on waivers and comprises for relief.
- ☞ Reopening a claim that has been previously denied.

Where to Find Help

There are a number of sources of help available to veterans, dependents and survivors. Most offer both administrative and representational help. Some tend to concentrate more on one than another. Here is a brief summary of each of them.

The Department of Veterans Affairs (VA)

The VA is one of the veteran's two best sources of administrative help. The veteran will find that any specific questions he or she might have will be answered promptly and clearly. The VA Regional Office has a number of Veteran Benefits Counselors ready to answer questions, assist in filling out VA forms and explain VA procedures.

Although a VA benefits counselor can serve as the veteran's representative in Regional Office hearings and before the Board of Veteran Appeals - and some perform this service exceedingly well - it would probably be wiser to seek representational help elsewhere.

The Illinois Department of Veteran Affairs (IDVA)

As is true with the VA, its personnel are knowledgeable regarding VA benefits and can answer most questions the veteran might have regarding eligibility, documentation, or format.

While many of the IDVA's Service Officers are good at representing veterans in VA proceedings, except for the few assigned to Veteran Service Organization (VSO) offices, their duties at local offices prevent them from taking on any significant representational case load. The IDVA will usually take the input from the veteran then refer the case to a VSO Service Officer for action.

The Veterans' Service Organizations (VSOs)

The VSOs provide both administrative and representational help. In the area of representational help, it is the VSOs who do the best job in preparing claims and in representing veterans at the regional office level and in appeal proceedings.

The individuals who provide this service are Service Officers. There are two types of Service Officers: the local post or chapter Service Officers who are part-time volunteers, and the full-time, professional Service Officers who are employees of the VSO.

The post or chapter Service Officers are versed in veterans' benefits. They tend, however, to be more active in providing administrative assistance and counseling, with their representational caseload being referred to full-time Service Officers at the Chicago, VA Regional Office. Veteran Organizations who have offices at the Regional Office are as follows:

American Legion Veterans Affairs & Rehabilitation Office Joseph S. Petrosky, Director 2122 W. Taylor St. Room 106 Chicago, IL 60680 Telephone Number: (312) 980 4266 or 4267 E-Mail: ALDJPETR@VBA.VA.GOV	VETERANS OF FOREIGN WARS Carl V. DiGrazia VFW Department Service Officer 2122 W. Taylor St. Room 127 Chicago, IL 60605 Telephone Number: 312 980 4284 E-Mail: vfwcdigr@vba.va.gov FAX: 312 706 6680
Disabled American Veterans Jeffery Hall, Director VA Regional Office 2122 W. Taylor St. Room 104 Chicago, IL 60605 Telephone Number (312) 980 4242 Fax 312 706 6673	Military Order of the Purple Heart Paul A. Mons 2122 W. Taylor St. Room 108 Chicago, IL 60605 Telephone Number: 312 980 4271, 72, 73 Fax Number: 312 706 6677
Blind Veterans of America Robert Malak VARO, Vets Assistance Section 2122 W. Taylor St. Chicago, IL 60680 Telephone Number: 312-353-1740 or 800-669-7079 Fax: 312-886-3025	Paralyzed Veterans of America William Korfmacher VA Regional Office 2122 W. Taylor St. Chicago, IL 60605 Telephone Number (312) 663-1872 Fax (312) 663-1801
AMVETS Herb Holderman, Director VA Regional Office 2122 W. Taylor St. Chicago, Illinois 60650 Telephone Number (312) 353 3954 FAX (312) 353 4068	Vietnam Veterans of America Dorothy LeClear, Director VA Regional Office 2122 W. Taylor St. Chicago, Illinois 60605 Telephone Number (312) 353 2613 FAX (312) 353 5937

The County Veterans Assistance Commissions (VAC)

Although provided for under Illinois law, not all counties have a Veterans Assistance Commission. Where they have been established, they usually serve as another good source of administrative help. In addition, depending upon individual qualifications, some VAC superintendents have compiled excellent records as veterans case representatives.

Veterans Rights Bureau (VRB) - Office of the Attorney General

VRB provides representational help to veterans, dependents or survivors who have been denied federal or state veterans' benefits. Cases are reviewed for merit prior to selection. Those cases

where administrative and representational help is needed and there is no apparent violation of the veteran's rights, VRB will refer the veteran to an appropriate source for assistance.

Some Other Sources of Help

Elected Officials

It is the official position of the VA that political intervention has no bearing whatsoever on the adjudication process. However, as has been testified to by numerous veterans, this is clearly not so. In some cases where a Senator or Congressman took a serious interest in a constituent's complaint, showed familiarity with the governing regulation and contacted the VA by way of inquiry, it has been observed that the VA took a more detailed look at the disputed benefit. However, a congressional staffer who calls will usually get a standard case status report. This inform as to where the case is but no action is actually taken. If however the representative calls personally a more serious look is taken.

The Media

Every so often the media will focus on a veteran who has been denied or lost benefits and who has enough "smarts" to get the media to cover his plight. A typical story may show a veteran in a wheelchair, or homeless and haggard, with the thrust of the copy being that "he doesn't know where to turn next." This is every VA administrator's nightmare come true. It is clearly poor "public relations" for the VA. In many well-documented cases, the VA has been known to respond to adverse publicity by taking immediate action favorable to the veteran. If the veteran can get the media on his/her side, he or she should do it.

HOW TO CHOOSE A REPRESENTATIVE

First of all, the veteran should shop around. Too many veterans feel like they are "stuck" with the first service officer they meet. This is a mistake. If the prospective representative does not make a good first impression he/she probably isn't too charming before a board either. A veteran need a representative who can intelligently prepare and persuasively present the case. A good representative is aware of all the rights and benefits available and the tactics needed to obtain those benefits. A good representative is aggressive in pursuing an appeal and like a bull dog fights until the battle is either won or lost.

In the final analysis it is the veterans case. No service organization charges a fee for handling it. Win or loose the service officer gets paid the same. In the end the veteran and only the veteran has the most to gain or loose.

When picking a VSO Service Officer always try to meet face to face. If that is not possible because of distance a telephone conference is the next best thing. Ask questions about how the case will proceed. Ask if there is enough evidence of record to win. If not ask what other evidence may

be helpful to the case and get suggestions on how to obtain that evidence. In short be involved in the case. Just a short word of caution, remember the VSO Service Officers are paid professionals. Most know their business. It is a good idea to follow their instructions. Also don't continuously call for a status of the claim and such. Most VSO Service Officers have very large case loads and there is only so much time to spend with one case. So do not monopolize their time.

SUMMARY

Of the types of help veterans need in claiming benefits, obtaining administrative assistance presents no problem. Obtaining representational (advocacy) help is cause for much greater concern. In choosing a representative, the veteran should shop around, learn how well qualified, by training or experience or both, the people he/she is talking to are. Choose one who is not only qualified to serve as the veteran's advocate, but whom the veteran trusts. And finally, the veteran should not overlook the "back-up" sources of help: the veteran's Congressman or Senator, whom the VA must pay attention to, and finally, media coverage of the veteran's problem.

Again it is the veteran's claim and it is in the veteran's best interest to become knowledgeable about it. The veteran should be aware of the time frame for processing a claim. At this writing, for example, there is a six to eight month delay in rating claims and almost a year and a half for appeals to be heard before the Board of Veterans Appeals (BVA). The veteran should also discuss the claim at length with his/her service officer to become aware of the claims process, evidence needed, and how to develop that evidence.

CHAPTER FOUR

HEALTH CARE

(revised April 1, 2003)

THE VA HEALTH CARE SYSTEM

INTRODUCTION

Over the last several years the VA has changed the way it provides for the health care needs of an aging veteran population. On October 9, 1996, Public Law 104-262 **Veterans' Health Care Eligibility Reform Act of 1996** was signed into law. The law replaced the complicated eligibility requirements for both in and outpatient treatment. Generally the requirements for outpatient and inpatient care are now the same. Eligibility requirements for nursing home care have remained the same as they were prior to P.L. 104-262.

Description of benefit

A complete range of care and services are available at VA Medical Centers, Community Based Outpatient Clinics, (CBOC) and Vet Centers. Services include medical care, rehabilitation, mental health services, and patient education. Also included are needed prescription medications.

P.L. 104-262 established seven enrollment, (Priority) groups. Veterans who wish to be treated by the VA must enroll in the VA's health care system. Veterans enrolled in the system will receive both in and out patient care. They "**may**" also be furnished nursing home care. For veterans under 50 percent service-connected medical care will be furnished for nonservice-connected disabilities only to the degree that the Congress appropriates funds. Usually this effects only those veterans who exceed the income limits set by the Congress, those in priority group 7 and 8. Priority group 8 was added by Public Law 107-135. Currently the VA is not accepting for treatment those veterans who fall into this priority group. However those veterans in this group who were enrolled for treatment prior to January 17, 2003 will be "grandfathered" for treatment, they will continue to receive the same level of care they were receiving prior to January 17, 2003. The enrollment groups are: (C.F.R. 38 17.36 [Enrollment - provision of hospital and outpatient care to veterans.](#))

Priority Groups

Priority Group 1

- ☞ Veterans with service-connected disabilities rated 50% or more disabling.

Priority Group 2

- ☞ Veterans with service-connected disabilities rated 30% or 40% disabling.

Priority Group 3

- ☞ Veterans who are former POWs.
- ☞ Veterans awarded the Purple Heart.
- ☞ Veterans whose discharge was for a disability that was incurred or aggravated in the line

of duty.

- ☞ Veterans with service-connected disabilities rated 10% or 20% disabling.
- ☞ Veterans awarded special eligibility classification under Title 38, U.S.C., Section 1151, "Benefits for individuals disabled by treatment or vocational rehabilitation."

Priority Group 4

- ☞ Veterans who are receiving aid and attendance or housebound benefits.
- ☞ Veterans who have been determined by VA to be catastrophically disabled.

Priority Group 5

- ☞ Nonservice-connected veterans and noncompensable service-connected veterans rated 0% disabled whose annual income and net worth are below the established VA Means Test thresholds.
- ☞ Veterans receiving VA pension benefits.
- ☞ Veterans eligible for Medicaid benefits.

Priority Group 6

- ☞ Compensable 0% service-connected veterans.
- ☞ World War I veterans.
- ☞ Mexican Border War veterans.
- ☞ Veterans solely seeking care for disorders associated with:
 - ▶ Exposure to herbicides while serving in Vietnam.
 - ▶ Exposure to ionizing radiation during atmospheric testing or during the occupation of Hiroshima and Nagasaki.
 - ▶ For disorders associated with service in the Gulf War.
 - ▶ For any illness associated with service in combat in a war after the Gulf War or during a period of hostility after November 11, 1998.

Priority Group 7

Veterans who agree to pay specified co-payments with income and/or net worth above the VA Means Test threshold and income below the HUD geographic index.

- ☞ *Sub priority 1:* Noncompensable 0% service-connected veterans who were enrolled in the VA Health Care System on a specified date and who have remained enrolled since that date.
- ☞ *Sub priority 2:* Nonservice-connected veterans who were enrolled in the VA Health Care System on a specified date and who have remained enrolled since that date.
- ☞ *Sub priority 3:* Noncompensable 0% service-connected veterans not included in Sub priority 1 above.

- ☞ *Sub priority 4:* Nonservice-connected veterans not included in Sub priority 3 above

Priority Group 8

Veterans who agree to pay specified co-payments with income and/or net worth above the VA Means Test threshold and the HUD geographic index.

- ☞ *Sub priority 1:* Noncompensable 0% service-connected veterans enrolled as of January 16, 2003 and who have remained enrolled since that date.
- ☞ *Sub priority 2:* Nonservice-connected veterans enrolled as of January 16, 2003 and who have remained enrolled since that date.
- ☞ *Sub priority 3:* Noncompensable 0% service-connected veterans applying for enrollment after January 16, 2003.
- ☞ *Sub priority 4:* Nonservice-connected veterans applying after January 16, 2003.

CO-PAYMENTS

Effective September 1, 1999 the VA became medicare compliant. This changed the way the VA does business in two very important ways. The first is that the VA now bills private insurance companies what are called “reasonable charges” meaning that the bill the insurance company gets will now contain charges similar to those of private hospitals. The bill will be itemized just like a private hospital’s bill. The second is that those veterans who must co-pay are now required to pay a larger deductible than previously. Additionally the VA will now bill the insurance companies of veterans rated less than 50 percent when they are treated for non-service connected conditions.

Inpatient care

The method of co-payment in many ways follows that of medicare. Co-payments are calculated in 90 day increments during a 365 day period. At this writing (April 2003) the deductible for hospitalization is \$840 for the first 90 day period plus a \$10 per diem. The \$840 is reduced by half for consecutive 90 day periods or fraction up to the 365th day. At that point the full co-payment starts over. As an example, a veteran is hospitalized for 30 days January 1 to January 30. The veteran would owe the VA a co-payment of \$840 plus the \$300 per diem, (\$10 per day x 30 days = \$300) for a total co-pay of \$1,140. The next 90 day period the co-pay would be \$420 (one half of the \$840) plus the \$10 per diem for a total co-pay of \$720. *Please note if the veteran is hospitalized with in a 90 day period where the deductible has been paid. Only the \$10 per diem would be charged.* ([17.108 Co-payments for inpatient hospital care and outpatient medical care.](#))

Outpatient treatment

The VA must now charge \$15 for each primary care visits and \$50 for each specialty care visits. Those who have medigap and or other health insurance will have the total amount paid by the insurance company applied to the veteran's co-payment first, with the remaining co-pay balance due being the veteran's responsibility.

Prescription Medication

The charge is \$7 for each 30 day or less supply of medications provided on an outpatient basis for nonservice-connected conditions. These rates may change yearly depending upon the Congress.

Long Term Care

VA charges for Long Term Care Services vary by type of service provided and the individual veterans ability to pay.

How the VA Bills

Once the total bill for treatment is determined the VA will first submit the bill to the veteran's health insurance company. This includes billing to a medicare supplemental plan, sometimes refereed to as a Medigap supplemental policy. Should the insurance company not reply to the VA's demand for payment; or pay only a part of the bill or deny payment, the VA will bill the veteran for the total cost of care or that portion not paid by insurance. The VA usually allows about 90 days for the insurance company to reply to the billing. Should the veteran be informed that the insurance company refused payment or only paid a portion of the bill it is always a good idea to personally contact the company. There are many occasions where a bill will be denied the first time it is submitted and paid on second consideration.

The above is given in basic terms so that the reader will at least have an idea of how a co-payment is figured under the new procedures. The Department of Veteran Affairs, [VAH Directive 2000-037](#) is the source for the above. It contains several examples of how the co-payments are calculated. The reader should address all questions on co-pay billing to the Medical Care Cost Recovery (MCCR) office at the local VA Medical Center. It is always better to pay the bill as soon as it is received. The VA is mandated by law to collect payments due and will do so quickly. Should a bill be found invalid or should the veteran become service connected for a disability for which he/she was billed the VA will reimburse the veteran for the amount paid.

How the VA Determines Income and Net Worth

For VA health care purposes the VA counts total family income as income for the veteran. Income includes but is not limited to wages, retirement pensions, military retirement, unemployment compensation, U.S. railroad retirement, interest and dividends, workmen's compensation, and any other type of income. Such income is counted for the spouse and children living with the veteran. Income is counted for the calendar year prior to the application for treatment.

Net worth includes the market value of stocks, bonds, notes, IRAs, bank deposits, savings accounts, and cash, however personal property and the veteran's residence are not counted. The VA determines net worth by subtracting total debts from the total net worth. The result is the adjusted net worth. It should be noted that the VA will not check the income and net worth at the time the application is completed. **HOWEVER** they may at their discretion check with Social Security and the IRS to verify what the veteran submitted. If there is a discrepancy a retroactive billing for the cost of care and medications could be created if the veteran fails to pay the bill all treatment could be terminated.

Health insurance companies

The VA for several years has been mandated by law to bill insurance companies for the cost of care for those veterans who must now co-pay. Effective September 1, 1999 insurance companies will be billed "reasonable charges" for the cost of care at VA facilities. But instead of collected funds going to general revenue, the VA is now allowed to keep all funds collected. It is hoped that these funds will be used to improve the quality of care provided by the VA.

Catastrophically disabled veterans

A catastrophically disabled veteran is one who has "a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others." Veterans who meet this definition will be placed in Priority Group 4. Evaluation for catastrophically disabled may be requested by the veteran or his/her representative. The evaluation is a physical/mental examination conducted by the hospital. The examination includes a review of the veteran's medical records. Upon completion of the process the veteran will be notified of the hospital's decision by letter. ([VAH Directive 2000-001](#))

WOMEN VETERANS

Toll-Free Mammography Information Line

A new nationwide toll-free mammography information line now expands VA's medical service to women veterans due to the efforts of the Durham VAMC and Telecommunications Support and Radiology services. The Durham VAMC can answer questions about mammography and refer callers for help in arranging for a mammogram at the nearest certified facility or through the women veterans coordinator at the nearest VA medical center. For those VA facilities where no mammography equipment is available, the service will be provided through FDA certified providers. The toll-free number is 888-492-7844, 8 a.m. until 4:30 p.m., Eastern. After 4:30 p.m., voice mail will take calls and a counselor will return your call the next business day.

Sexual Trauma Counseling

The Women Veterans Health Program Act of 1992 (P.L. 102-585) allows for Vet Centers and VA medical facilities to provide for outreach and counseling services for women veterans who have experienced sexual trauma while on active duty in the military. The act does not require that the sexual trauma must have been reported at the time it occurred or at anytime during active duty service. Applying for compensation for sexual trauma is addressed in chapter six Compensation and Pension Benefits.

BENEFICIARY TRAVEL

Description of Benefit and Eligibility

Veterans may be eligible for full or partial reimbursement of travel expenses in connection with receiving VA medical care. Veterans must meet certain criteria in order to be eligible for beneficiary travel. Travel payments will generally not exceed the public transportation rate and may be made only to the following categories of otherwise qualified veterans:

- Receiving treatment for your (rated) service-connected disability.
- 30% or more service-connected
- Receiving a Non-service-Connected Pension
- Have an income at or below the limit for a non-service-connected pension
- Keeping an appointment for a compensation and pension examination

It should be noted that travel is usually given only from the veteran's home to the nearest VA hospital. The VA has also established a deductible that must be met prior to travel being paid. It's a good idea to check with the travel clerk to establish eligibility and the deductible. If there is a need for special transportation, i.e., ambulance, medicar, etc., be sure to get prior approval from the treating physician or the admitting physician. Travel at VA expense must be authorized in advance. If you don't get prior approval, you could end up paying the cost yourself. Be sure to check your eligibility for special transportation.

VA NURSING HOME CARE

Description of Benefit

Nursing home care **may** be provided to qualified veterans who do not require hospital treatment, but who need extended care. The word “**shall**” is used when addressing VA Hospital and outpatient treatment because the VA is mandated to provide these benefits. The term “**may**” is used here because VA provides Nursing Home care only when space is available and/or when certain criteria are met.

Where VA physicians regard a medical condition as needing inpatient treatment a veteran

is treated in a VA hospital. But where the condition is seen as being long term, nursing home care may be provided. The VA operates nursing home care units in connection with the VA hospital system. When available facilities are filled, the VA may authorize reimbursement for private nursing home care.

Veterans who need community based nursing home care for a service-connected disability are eligible for an indefinite contract. This means that the VA pays the private nursing home the complete cost of care. Non-service-connected veterans may get a limited contract for nursing home care for up to six months depending on the availability of funds. The six months may be extended under certain situations. Please refer to [38 C.F.R. Sec. 17.60](#) for details on this and/or speak to a veterans benefits counselor.

Eligibility Requirements

Admission to a VA Nursing Home Care Unit is generally follows the same criteria for admission to a VA hospital. However, Veterans who require nursing care for a service-connected disability have first priority. Followed by service members who are in an Armed Forces hospital who require a protracted period of nursing care and who will soon be discharge from the Armed Forces. Finally, a veteran who had been discharged from a VA hospital and is receiving VA hospital-based home health services.

The VA **may** transfer veterans who need nursing home care from VA hospitals, nursing homes, or domiciliary to private nursing homes at VA expense. Veterans may be eligible for cost-free nursing home care depending upon their category for care. Generally, veterans requiring nursing home care for non service connected disabilities will be placed upon a contract, (this is addressed below). Once the contract is up the veteran will either have the cost paid for by public aid or go on private pay.

Priority System

Veterans in need of care in VA Nursing Home Care may be admitted or transferred according to the following priorities:

First: Veterans receiving hospital or domiciliary care in VA facilities when transfer is required for service-connected or adjunct disabilities; and persons being furnished care in Armed Forces hospitals who will require a protracted period of nursing home care upon release there from, and who will soon be discharged from active military service.

Second: Veterans not hospitalized or domiciled by the VA who require nursing home care for service-connected or adjunct disabilities.

Third: Veterans with a service-connected disability who are receiving VA hospital care and require nursing home care for non-service-connected disabilities.

Fourth: Veterans with a service-connected disability not hospitalized by the VA who require nursing home care for non-service-connected disabilities.

Fifth: Veterans receiving hospital or domiciliary care in VA facilities whose transfer is required for non-service-connected disabilities.

Sixth: Veterans not hospitalized or domiciled by VA who require nursing home care for non-service-connected disabilities.

DOMICILIARY CARE

Description of Benefit

Provides care on an ambulatory self-care basis for veterans disabled by age or disease who are not in need of acute hospitalization and who do not need the skilled nursing services provided in nursing homes. Care is provided in a VA domiciliary facility.

Eligibility Requirements

Otherwise qualified veterans of the various military services who were discharged for a disability or are in receipt of disability compensation and suffering from a permanent disability, have no adequate means of support, are incapacitated from earning a living and meet certain other requirements. Veterans who have non-service-connected disabilities that incapacitate them from earning a living, but which are not so severe as to require hospitalization, are also eligible if they are unable to afford private domiciliary care. Residents must be able to feed and dress themselves and perform certain other basic functions without assistance. Prior approval needed for admission.

Priority System

Priority for care in a domiciliary facility is the same as that for nursing home care. Refer to **VA Nursing Home Care**, [Priority System](#) in this chapter for details.

Housebound or Aid and Attendance

Description of Benefit

Extra money added to the monthly pension check of disabled veterans, and increased eligibility for medical care and medicine.

Eligibility Requirements

For Housebound:

Disability that causes the veteran to be permanently confined to the premises of the home or institution in which he/she resides.

For Aid and Attendance:

The veteran must be incapacitated to the extent that he/she requires the regular aid and attendance of another person for such things as eating, bathing, dressing, adjusting prosthesis, sanitary functions, and protecting him/herself from hazards of the immediate environment.

NOTE: Application for Housebound or Aid and Attendance benefits are made on VA Form 2680, "Veteran's Application for aid and attendance or house bound". Apply at any VA office. This benefit is

OUTPATIENT DENTAL TREATMENT

Description of Benefit

Dental examination and treatment to veterans on an outpatient basis.

Eligibility Requirements

(38 C.F.R. 17.160)

- ☞ Those having a dental disability that is rated as service-connected or who are in need of an examination to determine service-connection.
- ☞ Those having a service-connected disability whose dental condition is aggravating the service connected condition. A good example of this is a veteran suffering from service-connected ulcers whose dental condition doesn't allow him/her to properly chew food. This may be considered to be aggravating the service-connected ulcers and would therefore place the veteran in this category.
- ☞ Those whose dental examination is ordered as part of a general physical.
- ☞ Those who require dental examination during hospital, nursing home, or domiciliary care.
- ☞ Those whose dental conditions are considered to be the direct result of examination, hospitalization, or medical/surgical treatment given by the Department of Veteran Affairs.
- ☞ Veterans who are receiving Vocation Rehabilitation educational benefits, also called Chapter 31 benefits.

Treatment Classes

Eligibility for outpatient dental treatment are divided into six treatment classes. They are as follows: (38 C.F.R. 17.161)

Class 1: Veterans who have a compensated service-connected dental condition. There is

no time limit for treatment classes.

Class 2: Veterans who have a non-compensated service-connected dental condition. There may be time requirements to receive dental treatment under this category, i.e., application for care within 180 days from release from active duty. Treatment under this category is usually on a one time basis. **The exceptions are those who suffered combat or service trauma or former POWs, held less than 90 days. They may have been given treatment as necessary to correct the non-compensated service-connected dental condition. Another exception are those POWs held more than 90 days; they may get dental treatment as needed.**

Class 3: Veterans who have a dental condition determined to be aggravating a service-connected disability.

Class 4: Veterans who are rated 100% service-connected. They are entitled to any needed dental care.

Class 5: Veterans receiving benefits under Vocational Rehabilitation (Chapter 31) benefits.

Class 6: Veterans who were in the Spanish American War, Boxer Rebellion, or the Philippine insurrection. They may receive treatment for any dental condition.

Dental treatment may also be authorized to certain non-service-connected veterans if dental treatment was begun while the veteran was in the hospital and then only to complete the treatment that was started.

Treatment of Post Traumatic Stress Disorder (PTSD)

Treatment for PTSD is provided at certain VA medical facilities on both an in and outpatient basis. PTSD is marked by a host of afflictions associated with exposure to catastrophic stress. Nightmares, flashbacks, anxiety and sudden-startle reactions can occur immediately after exposure to extreme stress, or may develop years after the original stress.

PTSD is a recognized service-connected disability, compensable up to 100%. Those veterans who have reason to think their problems are caused by this affliction should talk to their representatives about filing

PTSD, or other identifiable social or psychological problems stemming from military service may be treated through the Readjustment Counseling Services Program carried out by the Vet Centers and VA Hospitals. These services include individual counseling, group counseling and family counseling. If the services requested by the veteran are beyond the authorized mission or expertise of the readjustment counseling program, the veteran requesting such services will receive support and assistance in obtaining the needed services, either through referral to an appropriate social agency, or to a VA medical center.

Readjustment Counseling

Some VA medical centers also have approved programs of readjustment counseling services available. Veterans seeking readjustment counseling services at a VA medical center should determine the availability of services prior to coming to the medical center. In areas where VA services are not available, the VA may provide readjustment counseling services through a contract or fee arrangement with community physicians, psychologists, or social workers.

Eligibility for these services has been expanded by P.L. 104-262 as well. Cost-free readjustment counseling is available to any veteran who served on active duty in a theater of combat during a period of war or in any area during a period in which hostilities occurred there (P.L. 104-262 Sec. 331). This law specifically provides entitlement for these services for veterans who met this requirement for the Vietnam Era. Veterans who served on active duty during the Vietnam Era but not in a theater of combat may receive these services prior to January 1, 2000. Also, members of the veteran's family may also be provided such services if doing so is needed to effectively treat the veteran.

Medical Attention for Dioxin (Agent Orange); Nuclear Radiation Exposure or Desert Storm Syndrome

Description of Benefit and Eligibility

The VA has a continuing program for examining veterans who are concerned about the possible health effects of Agent Orange; nuclear radiation exposure or Desert Storm Syndrome. The findings of these examinations are entered into a registry. Vietnam veterans and those veterans concerned about radiation exposure and Desert Storm Syndrome are encouraged to request an examination at their nearest VA health care facility. A veteran who participates will receive a comprehensive physical examination and be asked to complete a questionnaire about service experience. Following the examination, the veteran will be advised of the results. The examination could help to detect any illness or injury the veteran may have, regardless of origin, and may provide a basis for follow-up treatment.

Public Law 97-72 authorizes the Department of Veterans Affairs to "provide certain health care services to any veteran of the Vietnam Era (August 5, 1964 through May 7, 1975) who, while serving in Vietnam, may have been exposed to dioxin or to a toxic substance in a herbicide or defoliant used for military purposes. Health care services may not be provided, under this law, for the care of conditions which are found to have resulted from a cause other than exposure to these substances."

While the VA recognizes that certain medical conditions may be the result of exposure to environmental hazards in Desert Storm Syndrome, Vietnam or from and nuclear radiation these conditions are not generally recognized as compensable, that is, "service-connected." Since at some future date greater latitude may be exercised by the VA in determining such conditions to be service-connected, veterans who have reason to believe that their health problems are traceable to

the above should consider filing a claim for disability compensation for the condition. Should the VA consider that condition as service connected at a latter date you may have as an effective date the date you filed a claim even if it's years past.

Do not file a claim for the type of exposure; i.e., Agent Orange, file for the medical condition believed to be caused by the exposure.

Children and Spouses

Veterans of the Vietnam war who have children suffering from Spina bifida may be eligible for compensation for their children. This is covered in more detail in the booklet Benefits for Survivors and Dependents. There are also benefits for children born to women Vietnam Veterans this is addressed in Chapter Five, Compensation for Service Connected Disabilities and Non Service Connected Pension, [Benefits for Children of Women Veterans with Birth Defects](#)

Spouses and children of Gulf War veterans may be eligible for an examination by or paid for by the VA under Public Law 103-446, Section 107 The Veterans Programs Enhancement Act of 1998. Under the act spouses and children of Gulf War veterans who are suffering from an illness or a disorder, including birth defects, that cannot be separated from the veteran's service in the Gulf may request a physical examination. The examination follows a specific protocol. The results of the examination will be put in the Gulf War data base and used for future studies. Should the examination be completed by a private physician or hospital prior authorization by the VA is necessary. Should the VA give authorization they may reimburse the examiner up to \$400, (more with approval). These type of examinations are important because the data collected may result in service connection of certain disabilities. Such as happened with the children of Vietnam veterans who suffer from Spina Bifida. Statistics developed found that Vietnam Veterans had a disproportionate number of children with this disease. As a result these children now are eligible for VA compensation and medical care.

Miscellaneous VA Medical Benefits

Homeless Veterans

The VA has a number of homeless veterans assistance programs, including health care benefits assistance. The Veterans Benefits Administration (VBA), in working with the Veterans Health Administration and the Department of Defense, has established expedited claims processing for homeless veterans. Outreach and personal assistance to homeless veterans is a top priority for the VBA.

Special VA Homeless Programs

- Homeless Chronically Mentally Ill (HCMI) Veterans program
- Domiciliary Care for Homeless Veterans

- Compensated Work Therapy/Therapeutic Residence (CWT/TR)
- Comprehensive Homeless Centers (CHC)
- Social Security Administration (SSA) & VA Outreach assists veterans in rehabilitation and in receiving SSA benefits.

For further information on these and other special programs and to obtain assistance for homeless veterans concerning regular VA health care programs and benefits, contact a VA medical center or regional office or call toll-free to 800-827-1000 to contact your local regional office and speak with a veterans benefits counselor.

Patient Assistance Program (PAP)

Description of Benefit

Under this program a veteran may receive clothing supplies, barber services, and other related benefits.

Eligibility

Eligibility for this program is established by Medical Administration Service or Social Work Service depending on the hospital. The veteran to be eligible must be without means. Contact the ward social worker for assistance in receiving PAP benefits. If the veteran is not a patient in a VA Hospital contact the Chief Medical Administration or Chief Social Work Service.

Services for the Blind

Description of Benefit

VA Medical Centers offer total health and benefits review by the Visual Impairment Services Team (VIST). Other benefits include training for those who have recently been blinded at blind rehabilitation centers located at selected VA hospitals. Veterans may also be eligible for low vision aids, specially adapted housing, electronic and mechanical aids, guide dogs, talking books and tapes and braille readers and writers.

Eligibility

Eligibility starts with veterans who are service-connected for blindness, then for veterans who receive compensation for any disability or veterans who are eligible for VA medical services. Blinded veterans receiving compensation or pension receive medical or rehabilitative benefits.

Prosthetic Service

Description of Benefit

Prosthetic services include the issuing of prosthetic devices and training in their use.

Eligibility Requirements

P.L. 104-262 has also made changes in eligibility for this service. The VA must furnish prosthetic devices to veterans with at least a ten percent or more rated service-connected disability who are receiving VA care. Also under the new law, the following are eligible to receive certain prosthetic service cost-free:

- Any veteran for the treatment of a service-connected disability;

For treatment of any disability:

- Any veteran with a compensable service-connected disability (rated 10 percent or more, or service-connected according to P.L. 104-262 Sec. 4);
- Former prisoners of war, veterans whose discharge or release from service was for a compensable disability, and veterans who are receiving compensation under [38 U.S.C. Sec 1151](#);
- Veterans receiving increased pension based on need for regular aid and attendance or because they have been judged permanently housebound;
- Veterans whose incomes are below the means test threshold;
- All other veterans who are not required to pay a co-payment for their health care.

Also, cost-free prosthetic services may be provided to veterans with 0 percent rated non-compensable service-connected conditions for non-service-connected conditions, and to veterans exposed to herbicides in Vietnam, ionizing radiation, or an environmental hazard in the Persian Gulf, for treatment related to such exposure.

Adult Day Care

Description of Benefit

This benefit provides medical and rehabilitative services. This benefit is not to be confused with hospital care, outpatient treatment or nursing home care.

Eligibility Requirements

As in all VA benefits service connected veterans receive top priority. Veterans 50% or more disabled are next. Then veterans who have received care at a VA facility who are in need of such care. (38 U.S.C. 1720f)

Health Care for Former Members of the Armed Forces of Poland or Czechoslovakia

Description of Benefit and Eligibility

The VA is authorized to provide hospitalization, outpatient and domiciliary care to certain former members of the armed forces of the Government of Poland or Czechoslovakia who, while serving during WWI and II, participated in armed conflict against an enemy of the U.S. and who have been citizens of the U.S. for at least ten years.

Health Care for Former Members of the Armed Forces of the Commonwealth of the Philippines

Description of Benefit and Eligibility

The VA is also authorized to provide health care for recognized service-connected disabilities of former members of the regular armed forces of the Commonwealth of the Philippines, to certain former members of organized Philippine guerrilla forces, and to certain former members of the Philippine scouts who served in armed conflict against an enemy of the U.S. in WWII, under commanders appointed by the U.S.

OVERSEAS VA HEALTH CARE BENEFITS

Description of Benefit and Eligibility

Veterans with service-connected disabilities who anticipate a need for medical services for their service-connected disability, should, contact the Chief, Medical Administration Service (Foreign and Consular Unit of the Medical Benefits Section), VA Medical Center, Washington, D.C., to request a VA Foreign Medical Services Information Card. It will specify the condition for which treatment at VA expense in a foreign country may be authorized.

Prior to a veteran's overseas travel, any VA facility may assist the veteran by making the contact on the veteran's behalf with the VA Medical Center, Washington, D.C., to request authorization for foreign medical care. While overseas, the veteran may contact the Foreign Service Office in the consular section of the American Consulate or Embassy in the foreign country for assistance at the time treatment is required. Application for care under any circumstances should be made at the Consular Office in advance, or within 72 hours of the need for emergency care.

The Veterans Memorial Medical Center in Manila is the only overseas hospital where VA provided care is available to veterans with non-service-connected disabilities. Veterans may be admitted on a space-available basis and then only if they cannot afford other hospitalization.

How to Apply for VA Medical Benefits

- * Fill-out VA Form [10-10 EZ](#) (available at any VA hospital).
- * Apply at any VA medical facility or for Readjustment Counseling, at any Vet Center.

State Health Care Benefits (IDVA)

Domiciliary and Nursing Home Care

Description of Benefit

The sole state health care veterans' benefit is that provided by the Illinois Veterans Homes. Currently, there are Veterans Homes at Quincy, Manteno, La Salle and Anna.

Eligibility Requirements

1. Requirements Based on Military Service
 - (a) Veteran must have served in U.S. armed forces for at least 1 day, during any wartime period recognized by the VA or:
 - (b) For domiciliary care only, must have served for at least one year during any period.
2. Special Requirements
 - (a) Veteran must have either been an Illinois resident before entry into service, or have resided in Illinois, for one year before application for admission.
 - (b) Veteran, spouse of deceased veteran, must meet other qualifying conditions as determined by the IDVA.
 - (c) Spouses and spouses of deceased veterans who meet the above conditions may also qualify for admission (to Quincy Veterans Home only).

How to apply for admission to an Illinois Veterans Home

- * Fill out IDVA Form 225, and IDVA Form 255-1, or if a spouse or widow, special unnumbered form.
- * Apply at any IDVA office or directly to the Home.

SUMMARY

The eligibility requirements for health care benefits are among the most complex of all your benefits. To make matters worse eligibility for these benefits is constantly changing as our government downsizes. To get proper care and treatment you must become an educated consumer. You should know what you are entitled to by law, reading this book is only a start. Learn how to ask questions about your treatment. Teach yourself to be assertive in learning about your care and what procedures will be done to you. Most treating staff are very happy to explain in detail what they are going to do to you. Always ask about options. Above all if you have any questions at all about whether or not you qualify for a health care benefit, talk to one of the sources of help described in Chapter 3 and find out for sure!

CHAPTER FIVE

COMPENSATION
FOR
SERVICE CONNECTED DISABILITIES
AND
NON SERVICE CONNECTED PENSION

(revised April 2003)

INTRODUCTION

Service connected of a disability incurred or aggravated by military service is one of the most important benefits available to veterans. Service connection is the gateway to a variety of benefits including compensation, educational benefits, medical care and benefits for dependents. The greater the degree of service connection the more benefits available to veterans and their families. Eligibility for non service-connected pension also allows access to other benefits such as a greater eligibility for VA health care.

The address of the Compensation and Pension Benefits web page is <http://www.vba.va.gov/bln/21/index.htm>. Should a veteran or veteran's advocate want to appeal the denial of compensation or pension benefits this site will be very helpful in the preparation of the appeal. The veteran or advocate will be able to copy sections of the law, Board of Veteran Appeals, (BVA) decisions etc. directly into the Notice of Disagreement, (NOD) or Appeal. There will be other references to this and related sites throughout the Chapter.

Description Of Benefit

VA compensation is paid to veterans who have a service connected disability rated at ten percent or more. Those who are less than 10 percent receive no compensation but are still entitled to medical treatment for the condition. In some cases veterans who have two disabilities rated at less than 10 percent will receive compensation at the 10 percent rate. ([38 C.F.R. § 3.324](#))

In order to be considered service connected the veteran must win VA recognition of the disability as being service connected by going through the VA claims process. Service connection of a disability has three main requirements that; there must have been an in-service occurrence, there must be a current diagnosis and there must be a linkage between the diagnosis and the in-service occurrence.

Those who file a claim and are denied service connection or who receive a rating less than they believe they should have do have recourse. Any decision by the VA may be appealed. How to appeal will be discussed in Chapter Six, [How to Appeal a Denial of Benefits](#).

Non service-connected pension is a benefit for veterans who have at least one day of war time service and at least 90 days of consecutive military service. In addition to the service requirements the pension is based upon total family income from all sources.

Allowances for Dependents

Veterans whose service-connected disabilities are rated at 30 percent or more are entitled to an additional allowances for dependents. The additional amount is determined by the number of dependents. A disabled veteran evaluated at 30 percent or more is also entitled to receive a special allowance for a spouse who is in need of the aid and attendance of another person. It is important, therefore, to submit a VA Form 686c, Declaration of Status of Dependents, with marriage certificates, birth certificates, divorce decrees and any other proof that establishes dependency with

any claims for benefits. The VA's web site <http://www.vba.va.gov/bln/21/Rates/comp01.htm> will give the reader an idea of the difference in compensation payments for veterans with dependents. Also 38 U.S.C. §1115 Additional compensation for Dependents describes the benefit.

Additionally veterans who receive a non-service-connected pension will have the amount of pension increased based upon the number of dependents. However, the pension is also based upon total family income. If the spouse or dependent children are employed that income counts when the VA determines eligibility.

Compensation

Presumptive Service Connection

Prisoners of War

Former prisoners of war who were incarcerated for at least 30 days are entitled to a presumption of service connection for disabilities resulting from certain diseases if manifested to a degree of ten percent at any time after active service. The VA has a web site <http://www.vba.va.gov/bln/21/Benefits/POW/powpam.htm#bm01> is especially for former Prisoners of War and their dependents it is very helpful in keeping up to date on benefits. Those who do not have access to a computer should call the Regional Office, (800-227-1000) and go through the prompts, once a veterans benefits counselor is on the line ask to talk to the POW coordinator.

Presumptive diseases

Any nutritional deficiency, Avitaminosis. Beriberi including beriberi heart disease, the term beriberi heart disease includes ischemic heart disease in a former prisoner of war who had experienced localized edema during captivity. Chronic dysentery, Helminthiasis, Malnutrition (including optic atrophy associated with malnutrition), Pellagra, Any other nutritional deficiency. Post-traumatic osteoarthritis, Irritable bowel syndrome, Peptic ulcer disease. Peripheral neuropathy except where directly related to infectious causes. Also Psychosis, any of the anxiety states; Dysthymic disorder (or depressive neurosis). Frostbite, including the organic residuals of frostbite, if appropriate to where the veteran was held.

Exposure to "Environmental Hazards"

Veterans from all eras have been exposed in varying degrees to what has become known as "environmental hazards." Whether it was the "gas" of WWI or "Agent Orange" of the Vietnam era some veterans from all eras have been exposed to some "environmental hazard" These "hazards" include, but are certainly not limited to, mustard gas, radiation, agent orange, and gulf war syndrome. VA now acknowledges that certain conditions are presumed to occur as a direct result of the exposure to these "hazards" and will award compensation to veterans who meet the requirements for presumption. Veterans may also contact the VA Regional Office at 1 (800) 827 1000 for new information or "on line" at the web site given above. Each of the current environmental hazards, the eligibility requirements, and presumptive conditions are discussed briefly

below.

Radiation Exposure

If a veteran served on active duty or active duty for training as a member of the Guard or Reserve program and participated in "radiation risk activity," he/she is a radiation exposed veteran. If diagnosed as having the following conditions, the VA will presume that it occurred as the direct result of exposure to radiation and give the veteran compensation based on its severity. The list is current as of July 1, 1999. Some of the listed conditions must have occurred 5 years or more after exposure to radiation.

Presumptive Conditions

All forms of leukemia except chronic lymphatic (lymphocytic) leukemia, Leukemia may become manifest at any time after exposure. Also included are; Thyroid cancer; Breast cancer; Lung cancer; Prostate cancer. Bone cancer must become manifest within 30 years after exposure. Liver cancer; Skin cancer; Esophageal cancer; Stomach cancer; Colon cancer; Pancreatic cancer; Kidney cancer; Urinary bladder cancer; Salivary gland cancer; Multiple myeloma. Posterior subcapsular cataracts must become manifest 6 months or more after exposure. Non-malignant thyroid nodular disease; Ovarian cancer; Parathyroid adenoma; Tumors of the brain and central nervous system; Cancer of the rectum; Lymphomas other than Hodgkin's disease and any other cancer. [38 C.F.R. § 3.311 \(b\)\(2\)](#) contains all the current conditions considered as presumptive to radiation exposure.

If a claim is based on a disease other than one of those listed above the VA must nevertheless consider the claim under the provisions of 38 C.F.R. 3.311(4) provided that the veteran has cited or submitted competent scientific or medical evidence that the claimed condition is a radiogenic disease.

Mustard Gas Exposure

If a veteran participated in any experiments, tested chemical suits or was in any other way exposed to mustard gas during service, the following conditions are presumed to be caused by such exposure.

Presumptive Conditions

Chronic conjunctivitis, keratitis, corneal opacities, scar formation, or the following cancers: Nasopharyngeal; laryngeal; lung (except mesothelioma); or squamous cell carcinoma of the skin; chronic form of laryngitis, bronchitis, emphysema, asthma or chronic obstructive pulmonary disease. Acute nonlymphocytic leukemia. [38 C.F.R. § 3.316 Claims based on chronic effects of exposure to mustard gas and Lewisite](#) contains the most current presumptive conditions.

Agent Orange Exposure

Veterans who served in Vietnam, or in the waters surrounding or had duties that included visiting Vietnam it are presumed to have been exposed to Agent Orange. As a result, veterans who are diagnosed as having any of the following conditions, may be eligible for compensation depending upon the degree of disability and the date of diagnosis.

Additionally the for the first time in it's history the VA will compensate and care for the children of Vietnam Veterans how suffer certain birth defects. The first such disability to be considered as service connected for children is spina bifida. Then Public Law was passed and made effective January 8, 2003 and retroactive to December 1, 2001. This law has made provisions to compensate and care for the children of [Women Vietnam Veterans](#) who have children that suffer birth defects not as the result of birth defects as a result of Familial disorders; Birth related injuries; or Fetal or neonatal infirmities with well established causes. More on this latter in the chapter.

Presumptive Conditions

Chloracne or other acne form disease consistent with chloracne; Hodgkin's disease; Multiple myeloma; Non-Hodgkin's lymphoma; Acute and subacute peripheral neuropathy, the term acute and subacute peripheral neuropathy means transient peripheral neuropathy that appears within weeks or months of exposure; Porphyria cutanea tarda; Prostate cancer; Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea).

Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma) soft-tissue sarcoma includes the following: Adult fibrosarcoma Dermatofibrosarcoma protuberans, Malignant fibrous histiocyoma, Liposarcoma, Leiomyosarcoma, Epithelioid Leiomyosarcoma (malignant leiomyoblastoma), Rhabdomyosarcoma, Ectomesenchymoma, Angiosarcoma (hemangiosarcoma and lymphangiosarcoma), Proliferating (systemic) angioendotheliomatosis, Malignant glomus tumor, Malignant hemangiopericytoma, Synovial sarcoma (malignant synovioma), Malignant giant cell tumor of tendon sheath, Malignant schwannoma, including malignant schwannoma with rhabdomyoblastic differentiation (malignant Triton tumor), glandular and epithelioid malignant schwannoma, Malignant mesenchymoma, malignant granular cell tumor, Alveolar soft part sarcoma, Epithelioid sarcoma, Clear cell sarcoma of tendons and aponeuroses, Extraskelatal Ewing's sarcoma Congenital and infantile fibrosarcoma Malignant ganglioneur.

The VA has a home page for agent orange conditions contains the most current presumptive conditions and other information concerning exposure to agent orange the web site is located at <http://www.vba.va.gov/bln/21/Benefits/Herbicide/index.htm#bm05>.

New conditions associated with exposure to Agent Orange.

Diabetes mellitus type 2 has been recently been added to the list of presumptive conditions for those veterans who have served in Vietnam. Diabetes is a condition that carries with it a number of secondary conditions. Should a Vietnam veteran be diagnosed with Diabetes he/she should file a claim for service connection. Conditions that are secondary to Diabetes are rated separately from

diabetes itself.

On January 23 Secretary of Veteran Affairs Principi said that there was compelling evidence in the scientific community that exposure to herbicides such as Agent Orange is associated with **chronic lymphocytic leukemia (CLL)**. At this writing rules for service connecting the condition have not been written. Should a Vietnam veteran have this condition it is recommended that application be made as soon as possible and that the claim be accompanied with medical evidence that supports the diagnosis. If medical evidence is not available file the claim anyway and submit the evidence later or wait for the VA to schedule the compensation examination.

Benefits for Children of Women Vietnam Veterans with Birth Defects

Public Law 106-419 has made allowance to pay compensation and care for the birth defects of children of women Vietnam veterans that “1) are associated with Vietnam service; and 2) result in permanent physical or mental disability.” Not included are birth defects that are the result of a familial disorder, a birth-related injury or a fetal or neonatal infirmity with well-established causes. The child to be eligible must have been conceived after the veteran first entered Vietnam age and marital status are not a consideration for this benefit.

The monthly allowance under this benefit ranges from \$105 for a level one disability to \$1,373 a month for level 4. The levels are based upon the degree of permanent impairment.

How to Apply

Application for this benefit is made on VA Form 21-0304, Application for Benefits For Certain Children of Vietnam Veterans with Disabilities. This form is available at any VA office or is downloadable at <http://www.vba.va.gov/pubs/forms1.htm>. Once the form is completed send it with medical evidence that confirms the disability to:

Department of Veterans Affairs
VA Regional Office (339/21)
PO Box 25126
Denver, CO 80225

If there are any questions the VA has established an 800 number and an e-mail address to handle questions the toll free number is 800-820-1756. The e-mail address is, Birthdefects@VBA.VA.Gov.

Desert Storm Syndrome

Many veterans who served in the Gulf War have experienced severe medical problems. Desert Storm Syndrome has also effected the spouses and children of its victims. Gulf War veterans who experience, or whose spouses or children experience the symptoms listed below should report to a VA Medical Center for an examination. The veterans should also file a claim with VA for disability compensation. When the VA identifies what conditions are presumed to have occurred as a result of serving in the Gulf War, the effective date of compensation will be the date of claim, provided the veteran meets the criteria for service connection. If there is a question that the current

condition was caused by service in the Gulf War, a claim should be filed anyway to protect eligibility.

Symptoms

Fatigue, signs or symptoms involving skin, headaches, muscle pain, joint pain, neurologic signs or symptoms, neuropsychological signs or symptoms, signs or symptoms involving the respiratory system (upper or lower) sleep disturbances, gastrointestinal signs or symptoms, cardiovascular signs or symptoms, abnormal weight loss, menstrual disorders. (38 CFR 3.317 Compensation for Certain Disabilities Due to Undiagnosed Illnesses.)(b))

Service connection of non presumptive conditions

If a veteran dependent or survivor believes that a condition is a result of an exposure to an environmental hazard but the condition is not listed as presumptive a claim may still be filed and be successful. Provided that the veteran has cited or submitted competent scientific or medical evidence that the claimed condition is a disease caused by exposure to Agent Orange. This medical evidence must be of two types, medical statements that links the veteran's disease to exposure and scientific evidence that establishes a linkage of the disease to Agent Orange. Veterans who served in country in Vietnam no longer have to prove exposure that is now assumed.

Eligibility Requirements for VA Compensation

Requirements Based On Military Service

The veteran must be discharged or released from service under conditions other than dishonorable. The veteran must also have a recognized disabling injury or illness that incurred or was aggravated in the line of duty during active service. This also includes Guard and Reserve duty. The veteran may also qualify if diagnosed with one of the presumptive conditions listed above.

How to Establish Proof of Service-Connection

Establishing a "well grounded" claim.

Since the passage of the Veterans Claims Assistance Act of 2000, (VCAA) the need to establish a well grounded claim is no longer as stringent as it was when the VA was forced to apply it by the Court of Appeals for Veteran Claims,(CAVC). However it is still important to understand the basics of a well grounded claim. A well grounded claim is one that has supporting evidence that is deemed sufficient enough to justify "a belief by a fair and impartial individual that the claim is plausible."

Medical Discharge

Veterans who receive a medical discharge from service may qualify easily. The VA will usually accept the discharge as proof of service-connection, especially when either severance pay or disability retirement is granted. Please note that the VA must recoup severance pay before VA compensation can be paid. In the case of those who receive military retired pay, the veteran must waive that portion of retired pay that is equal to the VA compensation or waive retired pay to receive VA compensation as the greater benefit. This waiver only effects compensation and retired pay, no other benefits from the VA or military, are effected. The sooner the VA starts re-cooping the severance pay the sooner the veteran will get the compensation. Also should the disability increase in severity at any time after separation the veteran should apply for an increase in disability.

Medical or Psychiatric examination

If the veteran did not receive a medical discharge service-connection still may be granted provided the veteran is able to provide enough evidence to show that the claimed condition had it's start in the military. If the claim is considered well grounded by the VA they will schedule a compensation and pension examination. If, in the opinion of the examining physician the disability in question is related to military service. And the Service Medical Records indicate that treatment for the condition occurred while on active duty. The claim may be granted. In the case of PTSD the service records must show that the veteran was involved in combat or some other life threatening or similar stressor.

Other Important Factors to Consider

Establishing linkage - a key element in proving service-connection

It is critical to the veteran to be able to show evidence that will prove a link between something that happened during service and the present disability. In attempting to establish this "linkage," military records should be reviewed, to see what entries in the medical or personal records might support the claim. Look for any entry which might show some connection to the claimed condition. If there are no such entries, consider developing witnesses who may have knowledge of the injury or condition. The witness may be an individual who served with the veteran or who knew the veteran shortly after separation from the military. Letters the veteran may have written home that discuss the event or injury are also a good source. Another good source of service information are unit morning reports, obtainable from the Record Processing Center in St. Louis. Operational Journals, are a good source especially for PTSD claims.

VRB-Tip: Keep records of visits to private physicians for treatment of the condition that might be service related. These records can help greatly in determining the linkage and progression of a disabling condition. There have been several cases won in which lay statements were used to describe symptoms of conditions believed to have occurred in the military or within the one year presumptive period. These are most

Understanding What "Incurred Or Aggravated" Means

A condition that was **incurred** during military service refers to a wound, injury or illness that the veteran suffered during service. In some cases the incident is immediately disabling or the condition can worsen later and become disabling after separation from the military.

Disabling conditions that are **aggravated** during service also qualify the veteran for compensation. If a person enters service with a known medical condition and if during service that condition is aggravated as a direct result of service, the individual would qualify for compensation. Even if a condition pre existed service but manifested itself while on active duty it may still be service connected. (38 C.F.R. § 3.303)

Understanding The "Line Of Duty" Requirement

The veteran's disability must have arisen **"in the line of duty."** This means that if a veteran is injured (disabled) during active service, but during the commission of a crime, or while engaged in other "willful misconduct," he/she will be turned down by the VA for the disability rating. Where doubt exists as to whether a disability was incurred in the line of duty, the claim is carefully reviewed. The VA may make a determination of "extenuating circumstances," and approve the claim, or it may deny the claim. If it is denied, the veteran may appeal.

The Veterans Claims Assistance Act of 2000 (VCAA) and the duty to assist

Prior to the passage of VCAA the VA had to first "well ground" the claim before the duty to assist was triggered. This placed a tremendous hardship on the claimant. The passage of the VCAA firmly establishes the VA's duty to assist in the development of a claim for benefits. Though the VA still has the right not to assist the claimant if there is no reasonable possibility of the claim being successful. The duty to assist has two main parts. Once the VA receives a claim it will notify the claimant by letter of the information needed to "substantiate" the claim. In that same letter the VA will inform the claimant of the evidence they, the VA, are required by law to obtain.

38 U.S.C. § 5103A. Duty to assist claimants mandates that the VA make "reasonable" efforts to assist the those claiming VA benefits in the development of evidence needed to substantiate their claim. This "reasonable effort" includes requesting military records and private records that are identified by the claimant. However the VA is not mandated to pay for those records.

Additionally 38 C.F.R. § 3.159 (a) states in part that the VA "shall assist a claimant in developing the facts pertinent to his or her claim." This means that the VA must help the veteran develop evidence. They can do this by requesting military personnel records or service medical records (SMRs). They can also request after action reports, morning reports or any other government information that may assist the veteran in proving the claim.

The VA can also (if authorized by use of release forms) obtain records from private hospitals, out-patient treatment and private physicians. Having the VA obtain records can save a lot of aggravation and research. It can also save money in copying fees. Many times private agencies that would charge for copies of medical records will waive the fee if the VA asks for them.

Sometimes, however it is quicker for the veteran or his representative to obtain records on his or her own rather than wait for the VA. Remember that under the Freedom of Information Act of 1974 veterans may obtain complete copies of all records pertaining to their service. It also allows for the veteran or representative to review the records prior to submitting them to the VA.

How To Apply For Disability Compensation

- * A letter to the VA stating the benefit the veteran wishes to apply for and the circumstances surrounding the benefit acts as an informal claim. The VA will send the proper claim form. An informal claim protects the date of the award.
- * Fill out VA Form 21-526, "Veteran's Application for Compensation or Pension."
- If a VA Form 526, Application for Compensation or Pension, was completed prior a letter or VA Form 4138 Statement in Support of Claim is all that is necessary. The veteran or representative should simply state the benefit being applied for, in the case of compensation or pension. If it concerns an increase in compensation simply state the service connected disability and how it has increased in severity.
- * Apply at nearest VA or IDVA office.(be aware that the IDVA may only forward a claim to a Veteran Service Organization. This was mandated by an internal memorandum. Should the veteran not wish representation the IDVA service officer is instructed to give the claim to the veteran for forwarding to the VA on his/her own.)

Non-service-Connected Disability Pension (NSC Pension)

"Disability Pension," is a monthly payment made to wartime non-service-connected veterans who are permanently and totally disabled. The amount of the payment depends on the veterans' total family income from all sources.

Eligibility Requirements

The veteran must have been discharged or released from service under conditions other than dishonorable after 90 days or more service unless separated from service earlier because of a service-connected disability. At least 1 day of service must have been during wartime. (For dates of official Wartime Eras, see Chapter 2).

The veteran must be permanently and totally disabled, but not due to willful misconduct or vicious habits. The veteran's personal assets and income (combined, veteran , spouse and dependent children) must be below levels specified by the VA.

Description Of Benefits

Improved Pension

This is the only pension allowed recently disabled veterans. The improved pension program provides for annual rates, paid in monthly allotments. The annual amount is reduced by the amount of the annual countable income of the veteran, spouse and dependent children. Call the VA to get help in determining your monthly rate.

The following pension programs are still in effect for those veterans who were awarded while the pension law were in effect.

306 (Public Law 86-211) Pension

Countable income includes all income received by the individual, less specific exclusions. The income received by the veteran's spouse is countable income under certain circumstances. The income limitations vary each year, call the VA for the current rate.

Old Law Pension - Entitlement Prior To July 1, 1960

Countable income includes all income received by the individual, less specific exclusions. The income of the veteran's spouse is not countable.

Reduction While in Hospital, Nursing Home, or Domiciliary

When a veteran without a spouse or child is being furnished hospital, nursing home, or domiciliary care by the VA, the pension is reduced.

Aid and Attendance or Housebound

A veteran who is a patient in a skilled care nursing home or otherwise determined by the VA to be in need of the regular aid and attendance of another person, or who is permanently housebound, may be entitled to higher income limitations or additional benefits, depending on the type of pension received.

VRB-Tip: Veterans who are eligible for a VA pension should investigate whether they might not be better off receiving Supplemental Social Security Income and Medicaid. The acceptance of a VA pension could cause the veteran to lose these other allowances which, in some cases, could be greater. Discuss this matter thoroughly with your representative before filing a claim.

In counting income, the VA will use as a deduction medical expenses, including over the counter medicines. If the veteran's income is excessive and it can be shown by receipt of medical expenses, the veteran may be able to lower the income enough to receive pension benefits.

How To Apply For Disability Pension

- * Fill out VA Form 21-526, "Veteran's Application for Compensation or Pension."
- * Apply at nearest VA or IDVA office.

STATE BENEFITS

There are no State of Illinois disability compensation or pension programs for veterans.

SUMMARY

Compensation and pension benefits are two very important benefits. Having either one gives the veteran eligibility to other benefits that can be of great help to a veteran and his/her family. As mentioned in previous chapters and throughout the rest of this book, service-connected veterans always get priority treatment for their service-connected disabilities. If the service-connected disability(s) is/are severe enough, a wide range of other benefits become available to the veteran and his/her family.

Veterans who receive pension benefits also become eligible, or more eligible, for medical care by the VA. This is becoming more and more important as eligibility for VA medical care is tightened by the cut back in VA funding.

If you believe that you have a service-connected disability **DO NOT WAIT TO FILE! DO IT NOW!** The sooner you file after separation the easier it is to service-connect your disability. Conversely, the longer you wait the harder it is. Also, seek help in filing and developing your claim. This cannot be stressed enough, Veteran Service Organizations can be a great help. Read Chapter Three, [Sources of Help in Obtaining benefits](#).

If you are totally disabled as the result of a non-service-connected disability and are a war era veteran, you may be eligible for a non-service-connected pension. The effective date of the pension is the date your claim reaches the VA regional office, so do not wait to file your claim.

CHAPTER SIX

HOW TO APPEAL A DENIAL OF BENEFITS

INTRODUCTION

It's always a shock when you are notified that your claim has been denied. If you believe that the VA acted incorrectly take advantage of your rights of appeal. Both the VA and the IDVA have an appeal process designed to review such denials and where the denial is shown to be wrong, to reverse the decision and award the benefit. The purpose of this chapter is to familiarize you with how the appeal process works and how you can best make it work in your favor.

Federal Appeals (VA)

Background

When the VA makes a decision on a claim they send a letter with a copy of the Rating Decision to the veteran and his/her representative. Along with the Rating Decision and letter is a notice of the veteran's right to appeal the decision. Should the veteran disagree with any or all of the Rating Decision the veteran may choose to appeal. The start of the appeal process is a letter sent to the VA stating the disagreement. This letter is called a Notice of Disagreement, (NOD).

The Notice of Disagreement informs the VA that the veteran disagrees with a decision made by the VA Regional Office or VA Medical Center. Upon receipt of the NOD the VA will do one of two things. They will consider the NOD and if there is what they believe is a reasonable complaint with the Rating Decision they could do further development. As an example, a veteran may state that certain evidence submitted was not considered or other factors such as the compensation and pension examination was too short or was not well done. This type of complaint may cause the VA to reconsider the claim further develop the claim. If they do a new Rating Decision will be sent to the veteran upon completion of and the process may start all over again, with the veteran accepting or rejecting the decision. If the VA accepts the NOD and does not further develop the claim they will issue a Statement of the Case (SOC).

Along with the SOC the VA will send a letter acknowledging the receipt of the Notice of Disagreement and ask the veteran if he/she would like to have the case considered by a Decision Review Officer, the letter will also contain instructions on how to appeal a VA Form 9 will be included. The Form 9 is the most important part of the appeal process. Submitting the Form 9 within the time limit stated in the letter will insure that the appeal will go forward after review. Not submitting the Form 9 within the time period given in the letter could result a loss of the right to continue the appeal. **Be sure to get the Form 9 in to the VA as soon as possible, do not delay sending it.**

The Decision Review Officer, (DRO) unlike the old VA Hearing Officers are given several options. A DRO may:

- May call the veteran and discuss the case over the telephone informally.
- May conduct a formal hearing in which the veteran and witnesses are put under oath. May review the claim and issue a new Rating Decision awarding the veteran everything

claimed, a part of it or may deny the claim.

Some veterans want to actually appear before a DRO. These DRO hearings are treated like any hearing. The veteran and any witnesses will be placed under oath. The veteran and his/her representative will present an argument and submit any new evidence in support of the claim. The DRO may question the veteran and any witness. The proceedings are recorded and the veteran may request a copy of the transcript if desired. Once the DRO makes his decision the veteran and his/her representative will get a copy of the decision. If a Statement of the Case was issued prior to the DRO decision a Supplemental Statement of the Case will be issued and the veteran given a time period to submit an additional statement or new evidence. If a Statement of the Case was not issued a Statement of the Case will be issued along with the VA Form 9 discussed above.

Should the veteran still disagree with the decision the claim may be forwarded to the Board of Veteran Appeals, (BVA) for final VA consideration. The BVA is the final stop in the VA appeal process and ends the informal appeal process. Should the veteran wish to continue the appeal the claim file will be sealed in preparation to being sent to the Court of Appeal for Veterans Claims. No new evidence may be considered by the Court. The veteran will be given 120 days appeal to the Court of Appeals for Veteran Claims. If after 120 days the veteran has not acted to continue the appeal the BVA's decision becomes final.

The Court of Veteran Appeals, (CVA), is completely independent of the VA. The court considers only the evidence of record when the BVA made its final decision. No new evidence may be added to the record. The Court may only review the case on matters of law and regulation. In other words the Court will consider whether or not the VA followed its rules and regulations appropriately. The Court has full authority to award all or part of the benefits sought, confirm the VA's denial or remand the case back to the VA for further processing. Since inception in 1989 the court has forever changed the way the VA considers claims brought before it.

Probably the greatest change is that the VA must apply the rules of evidence when considering a claim. They can no longer pick and choose which evidence to use when they rate a claim. Nor can they ignore evidence submitted by a claimant including private medical records. The court has forced the VA to consider several doctrines that help veterans in the claim process.

The veteran may at any time during the VA appeal process develop new evidence and have it considered by the VA Regional Office (VARO) or waive Regional Office consideration and have it considered by the BVA without VARO looking at the evidence. This type of tactic should be discussed with a Veteran Service Officer.

Before Appealing

Before filing a Notice of Disagreement, and starting the appeal process, take a look at the denial letter and the enclosed copy of the Rating Decision. The Rating Decision explains, in the Reason and Basis for Decision the reasons for awarding or denying the claim. It will include the VA Regional Office's interpretation of the evidence considered including the compensation and pension examination. When reviewing the Rating Decision consider the following:

- ☞ Is all the evidence submitted listed under the evidence section of the Rating Decision. If not the VA should be contacted by letter and asked to review the unlisted evidence and then issue a new Rating Decision.
- ☞ Is each piece of evidence listed under the evidence section of the rating decision discussed in the Reason and Basis. Simply listing the evidence is not enough, it must be discussed in context and in relationship to the disability and all other evidence considered by the Rating Specialist.?
- ☞ Would statements from friends or people the veteran served with help explain case?
- ☞ Does the VA have all of the information needed to rate the claim favorably?
- ☞ Are there medical records that were not submitted?

It is strongly suggested that veterans contact one of the sources in [Chapter Three](#) to help in reviewing the denial. Veterans Organizations are skilled in representing veterans before the VA. They can also help in developing information that may cause the VA to view the claim favorably. If however, the veteran chooses to "go it alone," remember the VA bases it's decisions on evidence. Therefore the more hard evidence given in support of the claim the better.

The first step in the appeal process is the Notice of Disagreement. The Notice of Disagreement is a letter from the veteran or his/her representative telling stating a disagreement with the decision. The letter may be as long or as short as desired. All that is necessary is a brief statement that could be as simple as, "I disagree with the Rating Decision please send me a Statement of the Case" or it could be a point by point statement that lists each issue and the reasons for the disagreement.

BVA Consideration of a Claim

Once a claim is appealed to the BVA the appeal process takes on a some new rules and procedures. These rules and procedures are found both in 38 U.S.C. and 38 C.F.R. But generally the VA operates the same basic way except that the case is now in Washington D.C.

Veterans are given several options concerning their case. They may choose to appear before a BVA Hearing Officer and present their case personally or with a representative. These hearings take several forms a veteran may appear before the Traveling Board of Veteran Appeals at a local Regional Office or have a Video Conference or even go to Washington D.C. to appear. The veteran may also choose to allow the case to be decided without an appearance. In this case if there is a Veteran Service Organization representing the veteran the VSO will file a formal brief and argue the case for the veteran.

Personal Appearance in Washington, D.C.

Choosing a personal hearing in Washington D.C. has the same advantages of appearing

before a Video conference or the Traveling Board of Veteran Appeals at your local VA Regional Office, it just costs a lot more.

Personal Hearing with BVA Traveling Board

You can eliminate the time and expense of a trip to Washington by requesting a hearing before a BVA traveling board. These members of the BVA go to VAROs throughout the country to sit in personal hearing sessions. On the plus side here is the fact that you will have all the advantages of a face-to-face meeting. A disadvantage of a personal hearing before the Traveling BVA is that your wait may be as long as a year or more. Just for the hearing not the decision which could take another 6 to 8 months.

Video Conference Technique

The Video conference is a new method of appearing before a member of the BVA. It works the same as a face to face hearing except the BVA member is in Washington D.C. and the veteran and his/her representative are at the local VARO. Video conferences are a little quicker to be scheduled, at this writing. And has the same effect of a face to face hearing, yet some veterans and advocates would rather wait for a face to face hearing.

BVA Review without a Personal Appearance

Still another option open to you is to request a BVA review of your claim without a personal appearance. The BVA will review the facts contained in the claims file and make a decision as described earlier. It is here that VSOs can be very helpful. Trained National Veteran Service officers are highly skilled in writing an appellate brief to the BVA. It is strongly suggested that you have a VSO assist in the preparation of a written appeal but if you choose to go it alone the information contained latter in this chapter will prove helpful.

The advantages? Again, you'll save on travel expenses. It's also likely that you'll get a faster decision, since your case will be processed without the long wait it takes for a personal hearing. By choosing this option, however, you will lose the advantage of pleading your case in a face-to-face situation. This means your written appeal must be especially strong in its presentation of your case.

Results Of The BVA Review Or Hearing

Once the BVA has reviewed your case, you'll be notified that your claim has been decided in one of three ways.

First, the BVA may agree that you are entitled to the benefit, and reverse the VARO decision. The BVA would then order your VARO (who denied the benefit) to correct its error and award your benefit. In this case, of course, you have won, and your long appeal process is over.

Second, the BVA may "remand," or return your case to your VARO. In effect, this is much like a BVA reprimand to the VARO. While not in the form of an actual ruling, the BVA "remand"

indicates that something was wrong in the VARO's denial. The BVA is telling the VARO, to develop the case further, and/or consider the evidence that the veteran brought to the BVA appeal. Whenever the BVA bounces a case back to the VARO, the chances are generally good that the VARO will reconsider and award the benefit.

Third, the BVA may, after all you've done, uphold the original VARO decision and deny the appeal.

Options After a BVA Decision

Re-Consideration by the BVA

A veteran may ask that the BVA re-consider his/her case. This is done by letter that simply asks the BVA to re-consider the claim. Occasionally the BVA will overlook an important point. Or not have all the evidence that was submitted with the claim. The VA often establishes a temporary Claim File and sometimes evidence in the temporary file does not connect with the Claim file during the appeal process. A request to reconsider should state clearly why the claim should be re-considered. It should be based upon some key issue such as evidence not being considered in the appeal or some part of the law that was not addressed.

Review by Secretary of Veterans Affairs

Generally there are two situations in which the Secretary of Veterans Affairs may review cases and reverse a denial.

The **first situation** may occur if an appeal is denied due to administrative error "on the part of the Federal Government." This usually refers to an error in the veteran's military records that barred the veteran from receiving benefits. For example, a veteran claiming service-connected disability may have had his/ her claim denied because appropriate entries providing the connection were not made in his records. If the veteran can prove that the service-connected medical condition should have been logged in his/her medical records, he/she has grounds for a new appeal. However, if such an administrative error by the government was the cause of the first denial, the veteran should not waste his/her time going all the way "up the ladder" of the appeal process. Early on, the veteran should try to correct the error; for example, by applying to his/her former branch of service for correction of military records.

The **second reason** for an appeal to the Administrator of Veterans Affairs (after you've been unable to sway the BVA) is if you have suffered a financial loss due to the VA error. In one successful case, a veteran asked the VA if he would continue to receive educational benefits if he transferred to a certain school. The VA replied that he would. Later, the VA notified the veteran that it had made an error. The school was not VA approved, and the veteran's educational payments were cut off. The veteran made a successful case to the effect that he would not have made the transfer if the VA had not misled him.

As described in the above, you do have rights of appeal, even after you've lost an appeal to the BVA. But, before exercising such rights, you should be aware that this option is open only in

certain, specific situations. And second, you should be forewarned that it could be very difficult to win your case.

Rules and regulations to consider when appealing

"Benefit of the Doubt" and "Time, Place and Circumstance of Service"

Under the provisions of 38 C.F.R. 3.102 Reasonable Doubt, the VA is mandated by law to give every veteran the "benefit of the doubt" when processing a claim. This means that "all things being equal" the claim must be decided in favor of the veteran.

The VA must also consider, in cases involving combat veterans what is known as "**Time, Place and Circumstance of Service.**" Found at 38 U.S.C. 1154 **Consideration to be Accorded Time, Place, and Circumstance of Service** is one of the most important parts of the law when claiming a disability that occurred as the result of combat. In combat situations records are not kept of every incident. Sometimes a veteran may receive what may seem a minor wound or injury. He/she may even be treated for it at an aid station or field hospital. However, the record of the injury may never be associated with the veteran's medical records. Being in combat may also be a factor in establishing the disability (as in PTSD cases). Under this doctrine the VA must accept as fact lay evidence if it is consistent with the "time, place and circumstances of service." Or disprove it by "clear and convincing evidence to the contrary." (*38 U.S.C. § 1154 Consideration to be Accorded Time, Place, and Circumstance of Service; Horvath v. Derwinski, Vet. App. 1992, 2 Vet. App. 240, is a good case to help in clarifying of the law.*)

There are two parts to 38 U.S.C. 1154 part (a) states in part:

“(a)... (1) additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence,..."

Simply put, in weighing evidence the VA must consider if the circumstances under which the disability occurred is consistent with the veteran's job at the time of occurrence.

Part (b) of this section places a stronger mandate on the VA if the disability occurred under combat conditions. Part (b) states in part:

“(b) In the case of any veteran who engaged in combat with the enemy in active service ... the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service,

notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.”

This section directs the VA to more heavily weigh evidence if the claimed condition occurred under combat conditions. The VA may only deny a claim if there is “clear and convincing evidence to the contrary”

The doctrines of "Benefit of the doubt" and "Time Place and Circumstance of Service" are two very important principles. Simply put, veterans do not have to prove conclusively that they suffered an injury or disease in the service. They just have to produce enough evidence to out weigh the evidence in the file that is against awarding the benefit.

Duty to Assist

Found in **38 C.F.R. §3.159 Department of Veteran Affairs Assistance in developing claims**. The VA has a "Duty to Assist" the veteran in developing facts "pertinent to his or her claim". This does not mean that the veteran should expect the VA to do all the work. It does however mean that the VA must provide reasonable assistance in developing the veteran's claim. This assistance includes contacting other government agencies, obtaining and requesting pertinent medical or psychiatric examinations, etc., obtaining after action reports from the veterans branch of service, or any other reasonable information. When considering an appeal one should review the evidence considered by the VA. Are military medical records listed in the evidence portion of the Rating Decision? What about other records that the veteran may have notified the VA about were they obtained and considered. If they are not listed in the evidence section did the VA discuss why the evidence was not obtained in the Reasons and Bases section. If not this is a point to consider in appealing.

Presumption of soundness

Found in **38 U.S.C. § 1111, Presumption of sound condition** mandates that when the veteran entered service he/she was presumed to be physically and mentally sound, unless otherwise noted on the record. A good source of review is the entrance and exit examinations, are they the same. Many times the entrance examination will have no physical defects listed but the exit examination may show some physical problem. A good example is the hearing test. Often the entrance examination will be quite different from the exit examination the same is true for blood pressure readings.

The above are just a few of the legal points to consider when contemplating filing or when filing an appeal. However, your wisest move in considering an appeal is to obtain the best qualified service officer or representative from one of the veteran organizations to handle your case. Keep in mind that only after your case has been denied by the Board of Veteran Appeals (BVA) can you retain an attorney, to represent you before the CVA, more on that later.

STATE APPEALS (IDVA)

The IDVA appeals board is convened by the Director and meets least every six months. It considers all appeals requested by those whose case or application has been disallowed, or those instances where the appeal is made because of disagreement with the selection of beneficiaries, or any questionable claim referred to the board for adjudication. The board's authority is limited to the following programs:

- ☞ Vietnam Veterans Bonus
- ☞ Vietnam Prisoner of War Compensation
- ☞ WW II Bonus Program
- ☞ Korean Bonus Program
- ☞ Specially Adapted Housing Grants Program
- ☞ MIA/POW Scholarship Programs

To obtain a hearing before the Board of Appeals, contact the IDVA Field Officer, Officer Associate, or clerk/typist at any IDVA office and tell that person you wish to appeal an IDVA decision to the Board of Appeals. A written memo to the Director will then initiate the appeals process and the claimant will be advised of his/her rights and the procedures to be followed.

Claimants may forward their case arguments in the form of a written memo or brief, or they may argue their cases in a personal hearing. If they wish, they may retain an attorney to represent them. The Board meets in Springfield.

The appeal process when you have been denied a State of Illinois veterans' benefit is much simpler than where a U.S. benefit is involved. There is only one level: A Board of Appeals formed by the Director of the Illinois Department of Veterans Affairs. The board hears appeals of administrative decisions made by IDVA personnel in the administration of grant and benefit programs. The board consists of no more than seven members appointed by the Director, who also serves as the chairman of the board.

SUMMARY

Both the VA and the IDVA operate appeal processes. Of the two, that of the VA is far more lengthy and complicated. The VA reverses its benefit decisions in only a minority of cases. The higher you go in the appeal process, the smaller the percentage of reversals. At the same time, the higher you go, the greater the time and costs involved.

When the VA denies you a benefit, the first thing you want to know is whether the VA was right or wrong. This requires an expert opinion from a veterans representative. If the VA is clearly right, then that should end the matter. If, however, you and your representative feel that the VA was

wrong, can point out why, and can prove that you are eligible for the benefit -- appeal!
The VA has set up the appeal system for the stated purpose of safeguarding the rights of the veteran. The Court of Veteran Appeals was developed so that veterans could get a fair, impartial hearing should they be denied by the BVA. But as many veterans have learned, to obtain those rights, you had better be ready to do a little "safeguarding" of your own.

CHAPTER SEVEN
BENEFITS FOR DISABLED VETERANS

Introduction

Compensation is a gateway benefit. Being service-connected opens the gate to a variety of other important benefits. Not only for the veteran but also for dependents and survivors. Veterans who are service-connected may be eligible for vocational rehabilitation, special housing grants, VA life insurance, medical insurance, preference in hiring and many other benefits. The dependents and survivors of certain service-connected veterans may also be eligible for educational benefits, medical insurance and other benefits through the VA and or the Illinois Department of Veteran Affairs.

Compensation is a monthly monetary benefit awarded to veterans who suffer a disability that is directly related to military service or that is secondary to a service connected disability. Veterans who suffer a disability as a result of VA medical care or as the result of participation in a VA approved Vocational Rehabilitation program may under certain circumstances be eligible for service-connection.

Generally to receive the monthly benefit the disability must be rated at 10%. However under 38 C.F.R. [§ 3.324 Multiple noncompensable service-connected disabilities](#), a veteran with two or more 0% rated service-connected disabilities may be eligible for a 10% rating. Veterans who are 30% or more disabled by the VA are entitled to an additional amount compensation for dependents. Veterans who are 50% or more disabled are entitled to free treatment of any disability from the VA including free medications. Dependents of veterans who are 100% service-connected and who's rating is considered permanent will be eligible for both state and federal educational and medical benefits. Spouses and dependent children of veterans who die as the result of a service-connected disability will be eligible for dependency and indemnity compensation. However if the veteran was considered to be permanently and totally service disabled for at least 8 years prior to the date of death spouses and dependent children will be eligible for [Dependency and Indemnity Compensation](#)² regardless of the cause of death.

Compensation³ was discussed in the first part of the book. The purpose of this chapter is to explain the various benefits available to service disabled veterans and their dependents and survivors. It is assumed that the reader is already service-connected at some level. However this chapter is also a good motivator for those veterans who are “thinking” about applying for service-connection but have put it off for some time. As explained above compensation, being service-connected for a disability opens the door to a number of benefits. So if you have a disability that is directly related to your military service apply for compensation, don't wait. Use one of the sources of help in [Chapter Three](#), Sources of Help in Obtaining Benefits.

FEDERAL BENEFITS

²38 C.F.R. §3.5 Dependency and indemnity compensation which states in pertinent part:

This rate shall be increased by the amount set forth in 38 U.S.C. 1311(a)(2) in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling **for a continuous period of at least eight years immediately preceding death**. In determining the eight year period, only periods during which the veteran was married to the surviving spouse shall be considered. The resulting rate is subject to increase as provided in paragraphs(e) (3) and (4) of this section.

³For more information of filing for Compensation please see the chapter on Compensation, Pension.”

Introduction

Though healthcare was discussed earlier in the book we will briefly discuss VA healthcare benefits for service-connected veterans here. As previously stated health care for service-connected veterans is significantly enhanced. Veterans who are service-connected are entitled to medical treatment, prosthetic appliances and free medications as prescribed by a physician for any service-connected disability. Where a veteran who is being treated for a non-service-connected disability may be required to pay for treatment and medications and will be required to complete a yearly “means test” veterans being treated for a service-connected condition have no such requirement, as long as they are being treated for the service-connected disability. A word of caution however, the VA will bill service-connected veterans who are rated less than 50% for treatment of non-service-connected disabilities. It is therefore very important to review any bill received from the VA for accuracy in billing. Do not let the VA bill for treatment or medications given for a service-connected disability.

Eye glasses, contact lenses hearing aids:

[38 C.F.R. §17.149 Sensori-neural aids](#) authorizes a service-connected veteran who is rated at least 10% to receive contact lenses, eye glasses, hearing aids from the VA.⁴ This benefit could be very important to a veteran who is suffering a hearing loss or who is in need of glasses. All a veteran need do is to apply at the nearest VA Medical Center. Veterans must be on status with the VA to receive this benefit. Usually eye glasses, contacts and hearing aids will not be provided as a result of age. However those veterans who are rated at 10% for a service-connected disability are eligible regardless.

Prosthetic Appliances

[38 C.F.R. 17.150 Prosthetic and similar appliances](#) states that service-connected veterans shall be provided prosthetic appliances including wheelchairs, invalid lifts, special clothing, orthopedic shoes, hearing aids, necessary for treatment of any condition when receiving hospital, domiciliary, or nursing home care in a facility under the direct jurisdiction of the VA. Though non service connected veterans who are on status with the VA are given the same prosthetic aids under certain circumstances. Service-connected veterans are given them for their service-connected

⁴“**§17.149 Sensori-neural aids.** (a) Notwithstanding any other provision of this part, VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) only to veterans otherwise receiving VA care or services and only as provided in this section. (b) VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) to the following veterans: **(1) Those with a compensable service-connected disability; ...**”

conditions free of charge. **Apply for this benefit at any VA Medical Center.**

Annual Clothing Allowance

An annual clothing allowance found at [38 C.F.R. 3.810](#) is provided to eligible veterans in the form of a lump sum payment. To be eligible the veteran must be entitled to receive compensation for a service-connected disability for which he/she wears or uses a prosthetic or orthopedic appliance, including a wheelchair. The VA must determine that use of the appliance tends to wear out or tear clothing. **Apply at any VA Medical Center or VA Regional Office.**

Aids and Services for the Blind

[38 38 C.F.R. 17. 154 Dog-guides and equipment for blind](#) this section states in part: “Blind ex-members of the Armed Forces entitled to disability compensation for a service-connected disability may be furnished a trained dog-guide.” Veterans are eligible to receive special benefits for the blind if they are service-connected for blindness or are entitled to VA compensation for any service-connected disability and are determined by the VA to be blind. Veterans with best-corrected vision no better than 20/200 or less or field defect of 20 degrees or less are considered to be blind. Blind veterans may be eligible for Annual Visual Impairment Services Team (VIST) review (this is a total health and benefits review); adjustment to blindness training; home improvements and structural alterations to homes. This includes admission to a VA Blind Rehabilitation Center or Clinic where they may receive counseling and training.

Simply this means that a blind veteran who receives compensation for any disability may be eligible to receive a Guide-Dog and other aids to overcome blindness. Low vision aids include approved electronic and mechanical aids for the blind; their repair and replacement; guide dogs, including the expense of training the veteran to use the dog, and the cost of the dog's medical attention. Also included are talking books, tapes and braille literature (from the Library of Congress).

Apply at any VA Medical Center

NOTE: Blind veterans need not be receiving compensation or pension from the VA to be eligible for admission to a VA Blind Rehabilitation Center or Clinic.

Automobiles or Other Conveyances

[38 C.F.R. 3.808 Automobiles or other conveyances](#) authorizes veterans who suffer the service-connected loss, or loss of use, of one or both hands or feet, or permanent impairment of vision of both eyes to a prescribed degree. A one-time payment for the purchase of an automobile or other conveyance and adaptive equipment. Eligible veterans may also receive payment for adaptive equipment, its repair, replacement, or re-installation, required because of disability for the safe operation of the vehicle purchased with VA assistance, or for a previously or subsequently owned vehicle. Veterans who are entitled to compensation for ankylosis of one or both knees or one or both hips are authorized adaptive equipment only. **Apply at any VA Regional Office or VA Medical Center.**

Specially Adapted Homes

The VA has a web site that explains [Specially Adapted Housing](#)⁵ in detail. [38 C.F.R. 3.809 Specially adapted housing](#) and [38 C.F.R. § 3.809a Special home adaptation grants under 38 U.S.C. 2101\(b\)](#) under these provisions certain disabled veterans may be provided a grant (s) from the VA for the purchase or adaptation of a home specially adapted to their needs. **Application for both of these grants may be made to any VA Regional Office.** The details on each grant and the eligibility requirements are as follows:

\$48,000 Grant (38 C.F.R. 3.809)

Part one of the Specially Adapted Housing Grant means that the VA may approve a grant of not more than 50% of the cost of building, buying or remodeling a specially adapted home, or paying indebtedness on such a home already acquired, up to a maximum grant of \$48,000. To be eligible for this grant the veteran must be entitled to compensation for permanent and total service-connected disability, incurred after April 20, 1898, due to:

1. The loss, or loss of use or both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or:
2. Disability which includes: Blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity, or:
3. The loss, or loss of use of one lower extremity together with: Residuals of organic disease or injury; or the loss or loss of use of one upper extremity which so affects the functions of balance or propulsion so as to preclude locomotion without resort to braces, canes, crutches, or a wheelchair.

\$9,250 Grant (38 C.F.R. 3.809 (a))

The VA may approve a grant not to exceed the actual cost, up to a maximum of \$9,250, of acquiring adaptations to a disabled veteran's residence as are determined to be reasonably necessary for his/her needs. To be eligible the veteran must be entitled to compensation for permanent and total service-connected disability, incurred after April 20, 1988, due to:

1. Blindness in both eyes with 5/200 visual acuity or less, or
2. Anatomical loss or loss of use of both hands.

⁵<http://www.homeloans.va.gov/sah.htm>

State Benefits Specially Adapted Housing

The State of Illinois also has a specially adapted housing grant for those veterans who qualify for the federal veterans specially adapted housing grant.

[330 ILCS 65/ Disabled Veterans Housing Act Illinois](#) Under this act eligible veterans may be granted a single lump sum payment not to exceed \$15,000 to provide assistance in acquiring a suitable dwelling unit with special fixtures and/or movable facilities made necessary by the veteran's permanent and total disability. To be eligible the veteran must be certified eligible by the VA for the Federal Specially Adapted Homes grant and the veteran must have been a resident of the State of Illinois at the time he/she entered the service. **Apply at any IDVA office.**

Veterans eligible for the Federal grant of \$9,250 for Specially Adapted Homes may be provided a State of Illinois grant of up to \$3,000 to help pay the cost of remodeling made necessary by the veteran's permanent and total disability. This does not, however, mean the veteran will receive the full \$3,000. For example, if the cost of remodeling is fully paid by the VA grant of \$9,250, the IDVA grant will pay nothing. But if the cost of remodeling is over \$9,250, the IDVA grant will pay remodeling costs not to exceed \$3,000 over the \$9,250 paid by the VA grant.

To be eligible for this grant the veteran must be certified eligible by the VA for the Federal Specially Adapted Homes grant of \$6,500. The veteran must also have been a resident of the State of Illinois at the time he/she entered the service. **Apply at any IDVA office.**

Tax Exemption for Specially Adapted Housing

35 ILCS 200/15-165 provides for an annual property tax exemption of \$58,000 of the assessed value of property owned and used by a disabled veteran as a home that is classified as Special Adapted Housing in the Federal Law. The exemption remains in effect as long as the veteran, his wife, or unremarried widow maintains ownership of and resides on the property. To be eligible a Federal Specially Adapted Home grant must have been made to the veteran and the funds used for the purchase or construction of the home. **Apply at any IDVA office or fill out Illinois Form RLG-52. This exemption must be applied for annually.**

Supplemental Financing

Under the provisions [38 C.F.R. 809 \(a\)](#) veterans who receive special home adaption grants under [38 U.S.C. 2101\(b\)](#) who have available loan guarantee entitlement may also obtain a guaranteed loan or direct loan from the VA to supplement the grant to acquire a specially adapted home. **Apply at any VA Regional Office.**

Veterans Mortgage Life Insurance

[38 C.F.R. Part 8 a -Veterans Mortgage Life Insurance](#) provides a \$90,000 Mortgage Life Insurance for veterans who are given a specially adapted housing grant. Protection is automatic unless eligible veterans decline in writing or fail to respond to a final request for information on which their premium can be based. Premiums are automatically deducted from VA benefit payments, or paid direct if the veteran does not draw compensation, and will continue until the mortgage (up to the maximum amount of insurance) has been liquidated, the home is sold, until the coverage terminates when the veteran reaches age 70, or dies. If a mortgage is disposed of through liquidation or sale of the property, any unused portion of the life insurance coverage may be used on the mortgage of a second or subsequent home. **Apply at any VA Regional Office.**

Independent Living Program (ILP)

The Independent Living Program (ILP) is an individually tailored program that is geared to helping severely disabled veterans live independently. The VA will use a number of resources to help disabled veterans reach the goal of living independently this may include assistive technology, independent skills training, and referral to community support groups. All this in addition to resources available through the VA Medical System.

Generally the VA Vocational Rehabilitation staff makes the determination that it is not feasible for a disabled veteran to pursue gainful employment. They then focus on developing a program specifically for the veteran. This will include a detailed assessment of the veteran's needs. This assessment will include consulting with a variety of service providers, family members, and other professionals in the veteran's community. From this assessment a Independent Living Plan will emerge. **Veterans who are or who believe they are unable to pursue gainful employment as a result of their service-connected disabilities should complete a VA Form 28-1900, or apply at any VA Regional Office or VA Medical Center.**

Vocational Rehabilitation

[Vocational Rehabilitation](#) is governed by [38 C.F.R. PART 21-VOCATIONAL REHABILITATION AND EDUCATION](#) provides veterans who have a service-connected disability, with a wide range of services designed to help the individual with vocational or academic training:

A veteran is eligible if at least one of the following conditions are met:

- * A service-connected disability and are receiving at least 20% disability rating or would be but for receipt of military retirement pay. Veterans with 10% disability rating may be eligible if they have a serious employment disability.
- * Was honorably discharged for service-connected condition or are home awaiting orders for such a separation or are hospitalized awaiting separation for a service-

connected disability.

- * Has a serious employment impairment as the result of a service-connected disability.
- * Those veterans with less than honorable discharges may be qualify if they have a service connected disability and are approved by the VA. (See chapter one, [Exceptions and Limitations](#))

Rehabilitation Program Period

- * Veterans must complete a rehabilitation program 12 years from the date of the veteran's discharge or release from active duty.
- * This period may be extended if a medical condition prevents the individual from training or if the veteran has a serious employment disability.
- * Disabled veterans may receive services until they have reached their rehabilitation goal, generally up to 48 months.
- * V. A. may provide counseling, job placement and post-employment services for up to 18 additional months.

Rehabilitation Program Costs

- * While in training and for two months after completing training veterans may receive a subsistence allowance besides their disability compensation or retirement pay.
- * V. A. may pay cost of tuition and required fees, books, supplies and equipment.
- * V. A. may also pay for special support, such as tutorial assistance, prosthetic, lip-reading training and signing for the deaf.
- * Service members cannot receive subsistence allowance until they leave active duty.

Disabled veterans will be given vocational counseling prior to having an educational objective approved. for eligibility. A veteran may receive employment assistance, and self-employment assistance after completion of the educational objective.

VRB-Tip: If eligibility is established for more than one educational benefit, only one may be used. A VA counselor will discuss options and help to make the decision regarding which benefits are best suited however, the choice is the veterans!

If a veteran is rated totally disabled, the veteran may qualify for training and other services offered by the VA's Vocational Rehabilitation program. The veteran should also check eligibility to use other state benefits such as those offered through the Illinois Department of Rehabilitation

Services. Disabled veterans may be able to use both state and federal programs at the same time. **Apply at any VA Regional Office using a VA Form 1900.**

Educational Advance Payment

On occasion veterans may require advance payment of educational benefits in order to pay tuition, housing etc. such payment may be authorized if the following conditions are met:

- * Individuals receiving an advance payment must have the institution that he/she is attending verify enrollment.
- * The educational institution must, “Verify delivery of the advance payment check to the veteran.” Subsequent verifications are done by the veteran.

If a veterans wishes an advance payment all that need be done is to tell the certifying official at the institution to check the advance pay box on the VA certification form. The veteran will receive the first months pay in advance plus a partial month if the semester has already started. As an example if a semester starts on January 15 advance pay will be given for the period January 15 through the month of February. The veteran would receive the next check for education on April 1st. Remember the VA pays one month behind (i.e., February is paid on March 1st). (reference [38 C.F.R. 21.7151 Advance Payment Certifications](#))

EMPLOYMENT BENEFITS FOR SERVICE-CONNECTED VETERANS:

As with the other benefits available for service-connected veterans employment assistance also carries special considerations for those service-connected veterans seeking employment or who are forced to change employment as a result of an increase in their service-connected disability. The service disabled veteran may use [Vocational Rehabilitation](#) to learn a new skill and after completion of the program use the VA’s [Employment Service](#)⁶ on line. The service offers a variety of resources for service disabled veterans.

Disabled Veterans in Business

The above site links to the VA’s [Center for Veterans Enterprise](#)⁷. This site offers a number of resources for veterans seeking to gain government contracts or just gain more knowledge about running a business. In addition to the Federal Government there are many benefits for disabled veterans through the State of Illinois

Veteran’s Preference in Hiring

⁶http://www.vba.va.gov/bln/vre/emp_resources.htm

⁷<http://www.vetbiz.gov/default2.htm>

In addition to the services the VA offers the U.S. Department of Labor [Veterans Employment and Training](#) monitors veteran's preference in hiring laws. Generally veterans are entitled to preferences in hiring in both federal and state government civil service positions, and in some cases private sector jobs. Veterans preference in the Federal Government is governed by [38 U.S.C. Chapter 42, Employment and Training of Veterans](#). Generally any private employer who has a contract with the US Government over \$25,000 must have in place a program by which **disabled veterans**, Vietnam Era veterans or any other veteran who served on active duty during a war, campaign, or expedition will be considered for not only employment but advancement in employment.⁸

Commissary / Exchange Privileges at Armed Forces Bases.

This entitles 100% service-connected veterans, their dependents and survivors, and certain to shop and make purchases at military post commissaries and exchanges. This benefit may save those entitled in the purchase of groceries, liquor, sundries, non-prescription drugs, clothing, appliances, etc. Those who shop at Post Exchanges and Commissaries may save thousands of dollars a year. Typically prices are lower and there is no sales tax. Some Commissaries may assess a "user fee." however. (**NOTE:** Entitlement to this benefit overseas is governed by international law and available only to the extent agreed to by the foreign governments concerned).

All that is needed is a Commissary letter from the VA Regional Office. Take the letter to your nearest military base and present it to the ID card section. If getting an ID for a spouse or dependent child a marriage certificate and birth certificate is needed.

SUMMARY

Service Disabled veterans are entitled to a variety of special benefits because of their sacrifice for this nation. These benefits are governed by both the U.S. Department of Veteran Affairs but also the U. S. Department of Labor, Veterans Employment and Training. Additionally the State of Illinois has also passed into law benefits for Service Disabled veterans. These laws are governed by the Illinois Department of Veteran Affairs and range from tuition payment for state supported colleges and universities to free camping permits at state parks.

However to obtain all that is available disabled veterans and their families must become educated consumers. Help is but a telephone call away. Trained Veteran Service Officers from both

⁸38 U.S.C. Sec. 4212. Veterans' employment emphasis under Federal contracts (a) Any contract in the amount of \$25,000 or more entered into by any department or agency for the procurement of personal property and non-personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

the VA and the IDVA are available to answer questions. Additionally are [Veteran Service Organizations](#) located in VA hospitals and at the VA Regional Office also available to assist. There are countless books and pamphlets available. Lastly, but perhaps most important, are the sites especially for disabled veterans and their dependents on the internet. Use all the resources available to find out and apply for all the benefits and services to which you are entitled.

CHAPTER EIGHT
BENEFITS FOR SURVIVORS AND DEPENDENTS

INTRODUCTION

Survivors and dependents of veterans are probably the most uneducated as to their rights and benefits. In fact millions of dollars in veterans' benefits go unclaimed every year because survivors and dependents are simply not aware of all the benefits available. Survivors of veterans discharged under conditions other than dishonorable are eligible for some very basic burial benefits. These include the right to burial in a national cemetery, an American flag to drape the coffin, a Presidential Memorial Certificate and partial reimbursement of burial costs.

The VA has a web site specifically for dependents and survivors of veterans. It is located at [Survivors and Dependents home page](#)⁹ this site is a gateway to all the benefits offered to dependents and survivors of veterans. Especially those who are survivors of veterans who were 100% service-connected at the time of death.

A broad range of benefits are available to families of veterans who died as the result of a service-connected disability. These benefits are extremely important to surviving spouses. Such benefits may include financial help in the form of death compensation (commonly called DIC), VA health care, Federal and State educational assistance, and a VA home loan guarantee. Certain benefits may be extended to children and in some cases dependent parents. The survivors and dependents of members of the Armed Forces Reserve or Illinois National Guard who die while performing, or as a result of performing, active duty or active duty for training may also be eligible for these benefits.

This chapter will provide a benefit by benefit review of the assistance available to survivors and dependents. For simplicity's sake, the benefits are listed by category --Health Care, Education, Compensation/Pension, etc. -- with the Federal and State benefits within the category presented separately.

A survivors or dependents' eligibility for a benefit begins with the veteran's eligibility. For this reason, every veteran's family should have access, at the very least, to his/her DD 214 and/or Discharge Certificate. Equally important are the family member's eligibility as a bona fide dependent or survivor. So perhaps the best place to start is with a summary of the VA's ground rules in this area.

Eligibility

Obviously, a veteran's "survivor" may be a spouse, a child, or a parent. In general, however, "survivors" and "dependents" may be defined according to the following VA guidelines, which are also recognized by the IDVA.

- * **Spouse.** The person who is legally married to the veteran, under local laws (in this case, a legally recognized marriage in the State of Illinois). If there is any question whether the marriage is legal, the VA may rule that it is a "deemed valid" marriage

⁹<http://www.vba.va.gov/bln/dependents/index.htm>

so long as the spouse entered the marriage in good faith.

- * **Surviving Spouse.** The person who was legally married to the veteran at the time of the his/her death. The spouse must have lived continuously with the veteran from the time of the marriage until the time of the veteran's death. If there has been a separation, it must have been through no fault of the spouse. The surviving spouse is no longer eligible for benefits if he/she remarries, or if he/she lives openly with a member of the opposite sex and holds him/herself to be a spouse. If the surviving spouse's second marriage is void or annulled, or ended by death or divorce, then he/she may reapply for benefits.
- * **Dependent children.** Eligible children may be legitimate or illegitimate. They may be the veteran's natural children, or adopted, or stepchildren. They are generally considered dependent children until age 18. They will be considered dependents up to a later age if they are disabled or become disabled before they reach age 18. Children attending school are considered dependents until age 23. If a dependent child is attending school with VA financial assistance, he/she remains eligible for this benefit until age 26.
- * **Parents of veterans.** Eligible parents of the veteran may be natural or adopted. The veteran may be legitimate or illegitimate. The VA may take a liberal view on who qualifies as a parent. For example, a guardian "who acted as a parent" before the veteran entered service may qualify as a parent. In general, parents can qualify to receive a deceased veteran's death compensation if they can prove financial need.

If the spouse or dependent is already on record with the VA there will be no problem in establishing eligibility for survivor benefits. However if a parent, spouse or dependent child is not on status all that need be done is to furnish the VA with, a valid marriage license, birth certificate, or in the case of a parent (s) proof of dependency other supporting documents . If some legal question about a relationship should arise, the dependent should seek assistance from one of the [Veteran Service Organizations](#)¹⁰. If the veteran can travel, it will expedite matters if the veteran accompanies the dependent to the VA or IDVA office at the time the benefit is applied for to present his/her DD 214 and Discharge Certificate. If the veteran is deceased, the dependent should be able to present these documents.

Benefits Available to Survivors and Dependents

Burial, Non Service Connected Death Pension, Dependents Indemnity Compensation, health care, education and housing benefits described below correspond to the same benefits for veterans. Except where noted, the terms and conditions of each benefit are generally the same for the eligible dependent/survivor as for the veteran.

Burial/Death Benefits

¹⁰See Chapter 3, page 3 for a list of Veteran Service Organizations.

The basic burial benefits represent a "package" designed to ensure proper recognition of the deceased veteran's service to his country and to assist next of kin with burial expenses. The basic burial benefits consist of the following:

- | | |
|-------------------------------------|--|
| * American Flag | * Headstone or Grave Marker |
| * Presidential Memorial Certificate | * Monetary Allowance |
| * Burial in a National Cemetery | * Memorial Marker and Memorial Plot |
| * Headstone or Grave Marker | * Plot or Interment Monetary Allowance |

In general, eligibility for these benefits is extended to survivors and dependents of any veteran discharged under other than dishonorable conditions. Some have additional eligibility requirements. The specifics for each benefit and how to obtain them are addressed as follows.

- * **American Flag.** A ceremonial American flag is provided to drape the casket or accompany the urn of any honorably discharged veteran who served after January 31, 1955 or to any wartime veteran who served prior to January 31, 1955. After which it may be presented to next of kin, friend or close associate of the deceased veteran. **Apply at any VA or IDVA office or most local post offices. Application is made on VA Form 07-2008.**
- * **Presidential Memorial Certificate.** A certificate is provided to next of kin expressing the nation's gratitude for the individual's service it is signed by the President of the United States. The funeral director may request a certificate or love may **apply for a certificate. Apply at a VA Regional Office or at the address below:**

**Presidential Memorial Certificates
(402E12)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420-0001**

- * **Burial in a National Cemetery.** Generally honorably discharged veterans are eligible for burial in a national cemetery. Spouses and dependent children of eligible veterans are eligible for burial in a National Cemetery even if the veteran is not buried in one. Unmarried spouses or those who's remarriage has ended are also eligible for internment.

Illinois has several National Cemeteries they are:

[Abraham Lincoln National Cemetery](#)
Alton National Cemetery

[Camp Butler National Cemetery](#)

Danville National Cemetery

Mound City National Cemetery

Quincy National Cemetery

[Rock Island National Cemetery](#)

Illinois has one state Veterans Cemetery located at the Quincy Veteran's Home:

SUNSET CEMETERY

Illinois Veterans Home

1707 N. 12th Street

Quincy, Illinois 62301

(Michael Hutmacher, Administrator)

phone: (217) 222-8641

FAX (217) 222-9621

- * **Headstone or Grave Marker.** Provided by the VA at no charge for the grave sites of veterans buried in either private or national cemeteries. Shipped at government expense to the consignee. The cost of placing the headstone or marker in a private cemetery, however, must be borne by the applicant. A VA headstone or grave marker is also available to deceased members of a veteran's family who are buried in National Cemeteries, or in veterans cemeteries owned by the state. **Apply at any VA or IDVA office. Applications are made using VA Form 40-1330 and are forwarded to the Director, Monument Service (42) Department of Memorial Affairs, Veterans Administration, Washington, D.C. An application is not required if the deceased is to be buried in a National Cemetery.**

- * **Memorial Markers.** A memorial headstone or marker may be furnished on application of a close relative recognized as the next of kin to commemorate any eligible veteran (including a person who died in the active military, naval, or air service) whose remains have not been recovered or identified, or were buried at sea (whether by the veteran's own choice or otherwise); were donated to science, or were cremated and the ashes scattered without internment of any portion of the ashes. The memorial may be erected in a private cemetery in a plot provided by the applicant or in a memorial section of a national cemetery. **Apply at any VA or IDVA office.**

- * ***Interment or Plot Allowance .***

Service-Connected: If the Veteran died of a service-connected disability or where the service-connected disability was the primary cause of death the VA may reimburse up to \$1,500 toward burial expenses for deaths prior to September 10, 2001 and \$2,000 for those who died after September 11, 2001. If the veteran is buried in national cemetery, the VA may reimburse the cost of transportation.

The VA may provide an allowance to help pay for the purchase of a grave

plot for any veteran who served during a period of war, or was discharged with a service-connected disability. Burial or plot allowance may not be paid to the extent that they were paid by the deceased's employer or by a state agency or political subdivision of a state. The difference between the entire expense and the amount paid by the employer or the state, if, any, may be reimbursed to the limit of the allowance. The allowance is normally arranged for by the funeral director. **Apply at any VA or IDVA office. Application is made using VA Form 21-8834.**

Nonservice-Connected Death. VA may pay up to \$300 toward burial and funeral expenses. There is a \$150 plot/internment allowance for deaths prior to December 1, 2001. The plot/internment allowance is up to \$300 for deaths on or after December 1, 2001. If the death occurred while the veteran was a patient in a VA hospital or while under contract nursing home care, some of the costs for transporting the deceased's remains may also be reimbursed. **Apply at any VA or IDVA office or by filling out VA Form 21-530, Application for Burial Allowance. Attach proof of the service, a death certificate, and copies of funeral and burial bills.**

State (IDVA)

Headstones or Grave Marker Supplementary Allowance

The state will provide next of kin with up to \$500 in reimbursement for the cost of cartage and placement of VA-provided headstones or memorial markers. This payment will be made only after the headstone/marker has been received and placed and local cartage and placement fees paid. **Apply at any IDVA office. Fill-out VA Form 3 WVGR.**

Graves Registration

The IDVA maintains a "Roll of Honor" for all veterans buried in the State. Every cemetery or burial place is required to keep a permanent record of the burial of each U.S. veteran.

COUNTY

Indigent Burial Benefit

County boards are required by state law to provide an allowance up to \$600 and to appoint a suitable person to take charge of the burial of indigent veterans, their mothers, fathers, wives, widows or minor children. Dependent relatives receiving Public Assistance are not eligible.

For further information, **apply to the County Veterans Assistance Commission, or if your county does not have one, to any IDVA office, or directly to the county board.**

Other Federal Burial/Death Benefits

Burial at Arlington National Cemetery.

This cemetery is under the jurisdiction of the Department of the Army rather than the VA. Eligibility for burial in this cemetery is more restrictive, being limited to those who died while on active duty; Armed Forces retirees eligible to receive compensation. Veterans discharged under other than dishonorable conditions who later held elective office with the U.S. Government, were members of the Supreme Court or cabinet, or who served in an office salaried at Level 11 under the Executive Salary Act. Veterans separated from the service for physical disability of 30% or more prior to October 1, 1949. Veterans discharged under other than dishonorable conditions who were awarded one of the following decorations:

- Congressional Medal of Honor
- Distinguished Service Cross, Air Force, or Navy Cross
- Distinguished Service Medal
- Silver Star
- Purple Heart

Spouses and dependent children of those eligible for burial or now buried at Arlington are also eligible. Normally arranged for by the funeral director **or apply at any VA or IDVA office, or write or call the Superintendent, Arlington National Cemetery, Arlington, VA 22211, telephone (202) 695-3253 or 3250.**

Congressional Medal of Honor Recipient Gravestone or Marker. Although not specifically mentioned in the VA or IDVA brochures or benefit booklets, this special gravestone with Medal of Honor engraving has been available since 1976. In many cases, next of kin of deceased Medal of Honor recipients, unaware of the special CMH gravestone, have opted for a private headstone rather than a government-provided marker. May be arranged for by the funeral director. Or, you may **apply at any VA or IDVA office, using VA Form 40-1330.**

Free Passport to Next of Kin of Those Buried in Overseas Military Cemeteries. Immediate family members who wish to visit the grave of, or memorial to, former members of the Armed Forces in overseas U.S. military cemeteries are eligible for a U.S. Passport free of charge. **Those interested should obtain a statement of the location of the deceased's burial site or memorial from the American Battle Monuments Commission, Room 5127, Pulaski Building, 20 Massachusetts Avenue, Washington, D.C. 20314. Upon receipt of the statement, the passport may be applied for at most post offices, with the clerk of courts, or at any office of the Passport Agency, U.S. Department of State. For assistance, contact any VA or IDVA office.**

Federal Death Benefit (Gratuity). This benefit is paid to surviving spouses and dependents not by the VA, but by the branch of service of military personnel who die in service (providing death is not due to willful misconduct), or from service-connected causes up to 120 days after separation from service. The benefit amounts to a sum equal to 6-months military pay of the deceased, and is to be not less than \$800 or more than \$3,000. The branch of service pays this gratuity to the beneficiary designated by the deceased as entered in his/her service records. If survivors do not receive this benefit within a reasonable time, they should inquire not at the VA, but directly to the

Commander of the deceased's last assigned unit.

Dependents Compensation and Pension Benefits

Dependency and Indemnity Compensation (DIC)

(Death Due to Service-Connected Disability)

DIC payments are authorized for surviving spouses, unmarried spouses, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending a VA-approved school), and certain parents of service personnel or veterans who died:

- (1) while on active duty or
 - (2) from a disease or injury incurred or aggravated in line of duty while on active duty or active duty training; or
 - (3) an injury incurred or aggravated in line of duty while on inactive duty training; or
 - (4) a disability otherwise compensable under laws administered by VA.
- Death cannot be the result of willful misconduct.

Additional Eligibility Requirements for Surviving Spouse

In addition to the requirements noted in "Definition of [Surviving Spouse](#)" at the beginning of this chapter, in order to be eligible for DIC payments for service-connected death, the surviving spouse must also meet one of the following requirements:

- * Must have married veteran within 15 years of veteran's separation from service.
- * Must have been married to the veteran one year or more.
- * Must have had a child by the veteran, either before or after the marriage.
- * Must not be remarried. H.R. 2297 signed into law December 16, 2003 called The Veterans Benefits Act of 2003, Restores dependency and indemnity compensation (DIC), VA home loan guarantee, and education, benefit eligibility for spouses remarried after age 57, and burial eligibility for all remarried spouses.

Death Due to Non-service-Connected Cause:

DIC payments are also authorized for surviving spouses, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending a VA-approved school) of veterans who were 100% service-connected at time of death and whose death was not the result of their service-connected disability, if:

- * The veteran was continuously rated totally disabled for a period of 10 or more years or:
- * If so rated for less than 10 years, was so rated for a period of not less than five years from the date of discharge from military service. Or
- * OR if a former Prisoner of War who died after September 30, 1999. To qualify under this provision, a spouse must have been married to the veteran at least two years. Payments under this provision are subject to offset by the amount received from judicial proceedings brought on account of the veteran's death.

If death occurs after service, the veteran's discharge must have been under conditions other than dishonorable.

Amount of DIC Payments:

The VA currently pays \$948, (October 28, 2003) this amount may be increased however if there are dependent children. If the surviving spouse is receiving Survivor Benefit Plan (SBP) then only the difference between the two is received. If the DIC is greater than the SBP the spouse receives the DIC in leu of the SBP. **To apply for DIC benefits fill out a VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child or apply to any VA Regional Office or IDVA office.**

Additional Monetary Benefits for Dependents/Survivors

Aid and Attendance

Surviving spouses, and parents receiving DIC may be granted a special allowance for aid and attendance if they are patients in a nursing home or require the regular aid and attendance of another person. **Application may be made at any VA Regional Office or fill out a VA Form 21-2680 Examination for Housebound Status or Permanent Need for Regular and Attendance.**

Housebound

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but who due to disability are permanently housebound may also anted a special allowance in addition to the DIC rate otherwise payable. **Application may be made at any VA Regional Office or fill out a VA Form 21-2680 Examination for Housebound Status or Permanent Need for Regular and Attendance.**

Reinstated Entitlement Program For Survivors (REPS)

Certain survivors of deceased veterans who died of service-connected causes incurred or

aggravated prior to August 13, 1981, are eligible for benefits. The benefits are similar to the benefits for students and surviving spouses with children between the ages 16 and 18 which were eliminated from the Social Security Act. The benefits are payable in addition to any other benefits to which the family may also be entitled. The amount of benefits are based on information obtained from the Social Security Administration. **Apply using a VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child or apply to any VA Regional Office or IDVA office.**

Death Compensation Relating To Deaths Before January 1, 1957

Death compensation payments are authorized for surviving spouses, unmarried children under 18 (as well as certain helpless children and those between 18 and 23 if attending school), and dependent parents of service persons or veterans who died before January 1, 1957, from a service-connected cause not the result of a willful misconduct.

Survivors with eligibility for death compensation benefits may elect to receive DIC benefits. Generally, the DIC benefits will pay greater rates, especially for surviving spouses and children. More specific information about death compensation benefits may be obtained from your nearest VA or IDVA office. If a survivor has eligibility for both death compensation and DIC, the VA office processing the claim will notify the survivor about the dual entitlement and will explain how to elect payments under the DIC program. **VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child or apply to any VA Regional Office or IDVA office.**

Non-service-Connected Death Pension

Certain surviving spouses and children of deceased eligible veterans may qualify for Non-Service-Connected Death Pensions. The veteran must have been discharged under conditions other than dishonorable, and, unless discharged or retired sooner for service-connected disability, must meet one of the following requirements:

- * If a veteran of WW I, WW II, or the Korean War, must have served at least 90 days.
- * If a veteran of the Vietnam War, must have served at least 181 days.
- * If a veteran who served after January 1, 1977, must have fulfilled his/her enlistment contract (served full enlistment period).

Surviving spouses and unmarried children under age 18 (or until age 23 if attending a VA-approved school) of deceased veterans of the wars referred to above may be eligible for pension based on need if they meet the applicable income standards.

Otherwise qualified children who became permanently incapable of self-support because of mental or physical defect before reaching age 18 may receive a pension as long as the condition exists or until they marry.

Pension is not payable to those whose estates are so large that it is reasonable they look to the estates for maintenance.

A surviving spouse who is a patient in a nursing home or otherwise determined to be in need of the regular aid and attendance of another person, or is permanently housebound, may be entitled to higher income limitations or additional benefits, depending on the type of pension received.

Additional Eligibility Requirements for Surviving Spouse

In addition to the requirements for "Surviving Spouse" defined at the beginning of this chapter, in order to be eligible for Non-service-connected death pension, the surviving spouse must have been married to the veteran at least one year prior to his/her death, unless a child resulted from the union. If married to a Vietnam era veteran, must have been married prior to May 8, 1985.

Amount of Non-service-Connected Death Pension Payments

To apply for this benefit use **VA Form 21-534 Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child** or apply to any VA Regional Office or IDVA office.

The amount of pension paid depends upon whether the surviving spouse and children are receiving payments under the Improved Pension Program, or the Protected Pension Program. The differences are described below.

Improved Pension

Effective December 1, 1985, the improved pension program provides for annual rates, generally payable monthly. The annual payment is reduced by the amount of the annual countable income of the surviving spouse or dependent children.

Protected Pension Programs

All surviving spouses and children who were on the rolls December 31, 1978, who do not elect improved pension, may continue receiving pension under the prior law at the rate they were receiving on that date. Monthly payments shall continue as long as their income does not exceed the applicable income limitation or they do not lose a dependent.

State (IDVA)

Vietnam Era Survivors Benefit

The nearest eligible survivor of a veteran who died as a result of service in Vietnam may receive a payment of \$1,000, providing the veteran did not claim his/her Vietnam service state bonus. **Apply at any IDVA office, and ask to fill out Illinois Form 2.**

Health Care Benefits

The health care program is known as [CHAMPVA](#) (Civilian Health and Medical Care Program of the VA). It is the usual VA practice to refer dependents to non-VA medical facilities and reimburse these facilities for treatment/care provided. However, dependents should apply first to the VA and obtain approval.

Who May Be Eligible:

- * Spouse or dependent child of a veteran with a total and permanent service-connected disability.
- * Surviving spouse or child of a veteran who died as a result of a service-connected total disability, or who, at the time of death, had a total and permanent service-connected disability.
- * Surviving spouse or child of a person who died while on active duty.
- * Applicants must not be eligible for health care under CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) or under Medicare.

How To Apply for CHAMPVA

To apply benefits submit:

- ✓ Application for CHAMPVA Benefits, VA Form 10-10 d;
- ✓ Other Health Insurance Certification VA Form 10-7959 c This is for individuals who are eligible for Medicare.
- ✓ Copy of the Medicare card.

If age 65 or older and not entitled to Medicare, applicant must send documentation from the Social Security Administration, which confirms that non-entitlement.

Processing of the application may be speeded up if information that shows the veteran was permanently and totally disabled are submitted along with the application. A copy of the VA rating decision that shows the veteran is permanently and totally disabled or death rating for a survivor will suffice. Also be sure to sent copies of the marriage license, Birth certificate/adoption papers for children. **Never send originals always send copies.**

If a remarried widow/widower and that marriage is dissolved by death or divorce all that is necessary is a copy of the legal documentation that terminated the remarriage. The legal documentation of termination of a remarriage may be a divorce decree, death certificate or annulment decree.

Also a copy of the Veteran's DD 214 or Military Separation papers if available. and finally if there are children ages 18-23 attending school a copy of the school certification of full-time

enrollment.

Send everything (be sure to keep copies for the your personal record) to:

CHAMPVA-Eligibility
PO Box 469028
Denver, CO 80246-9028

State (IDVA)

Eligible spouses and surviving spouses may apply for residency at the Illinois Veterans (retirement and nursing) Home at Quincy. The description in Chapter 5 includes eligibility requirements for admission. (95 ILL. Admin. Code 107.20-30)

Educational Benefits

Dependents of totally disabled service connected veterans or of those veterans who died as the result of a service-connected disability, (discussed earlier in this chapter) are eligible for educational benefits under **38 U.S.C. Chapter 35 Survivors' and Dependents' Educational Assistance**. Dependent children can generally qualify from age 18 to 26. Under specific conditions, the child's educational assistance can start at an earlier age; or can be extended beyond age 26.

Who May Be Eligible

- * Spouse or dependent child of a veteran with a total and permanent service-connected disability. Application must be made within 10 years of the date the veteran was found to be service-disabled.
- * Surviving spouse or child of a veteran who died as the result of a service-connected disability, or who, at the time of death, had a total and permanent service-connected disability. You must apply within 10 years from the date (1) of the veteran's death, or (2) the date that the VA determined the death was due to a service-connected disability, whichever is later.
- * Spouse or child of a veteran who has been listed as missing in action for more than 90 days or was captured in line of duty and is being detained by a foreign power.

Apply at any VA or IDVA office or fill a VA Form 22-5490 Application for Survivors' and Dependents' Educational Assistance.

State (IDVA)

The State of Illinois offers several educational assistance programs for spouses, surviving spouses, and children of veterans, as follows:

POW/MIA Scholarship

The spouse, surviving spouse or child of a veteran who was declared a prisoner of war or missing in action or who is permanently and totally disabled from a service-connected disability or who died as a result of a service-connected disability. And who was an Illinois resident for at least six months before entry into service may receive a four-year scholarship to a state-controlled college or university. (95 ILL. Admin. Code 116.10 et. seq.) **Apply at any IDVA office. Fill-out IDVA form POW-I.**

Educational Opportunities for Children of Veterans

A child of a veteran who is in grade or highschool may receive up to \$250 per school year in educational assistance if the veteran is totally disabled as a result of a service-connected disability or died as a result of military service. **Apply at any IDVA office. Fill-out VA Form ED I.**

County

Honorary Scholarship, University of Illinois

Each Illinois county may provide one such scholarship per year to children of veterans of wartime veterans. Children of veterans of WW I, II, the Korean or Vietnam Wars and those who served in the Gulf and other areas of conflict preference is given to children of deceased or disabled veterans.(see 110 ILCS 305/9 Honorary scholarships- Number from each county) **Apply to any IDVA office or to a State Senator or Representative.**

Housing Benefits

Federal

[Home Loan Guarantee](#) eligible surviving spouses may obtain a VA-guaranteed home loan. To be eligible the spouse must be:

- * Surviving spouse of a veteran who was in service any time between September 16, 1940 and the present, and:
- * Who died as a result of service-connected disabilities, or:
- * Was on active duty when officially listed as missing in action or prisoners of war and have been in such status for more than 90 days.

Apply at any VA Regional office or any IDVA office or apply directly by filling out a VA Form 26-1880, send it along with proof of military service to:

Los Angeles Eligibility Center
P.O. Box 240097
Los Angeles, CA 90024.

The VA uses two eligibility Centers for the Loan Guarantee program. The center for Illinois is given above for questions or to directly contact the center applicants may call the toll free number or send an e-mail to the address below:

Toll free number: 1-888-487-1970
E-mail: vavbalan/lgyeli@vba.va.gov
LA Website: www.vahomes.org/la/home.htm

State (IDVA)

Housing Tax Exemption

The Spouse or unmarried surviving spouse of a veteran with a 100% service-connected disability may be exempt from the first \$58,000 of assessed value of property providing the property. If the is purchased or specially adapted housing for which Federal funds were used. [35 ILCS 200/15-165](#))¹¹. Eligibility must be reestablished on an annual basis by certification through the Illinois Department of Veteran Affairs. The Department will forward the certification to the assessing official. Apply at any IDVA office.

Employment Benefits

Preference for Employment in the Federal Government

The un-remarried spouses and mothers of veterans who died as the result a service-connected disability or who died while on active duty may receive preference in hiring for federal Civil Service employment this may include additional points added to passing scores in job examinations, waivers of certain physical requirements, first consideration for certain jobs, and preference for retention in layoffs. **Apply at the personnel office of the U.S. Government office, department or agency where the civil service vacancy exists.**

¹¹ (35 ILCS 200/15-165) Sec. 15-165. Disabled veterans. Property up to an assessed value of \$58,000, owned and used exclusively by a disabled veteran, or the spouse or unmarried surviving spouse of the veteran, as a home, is exempt. As used in this Section, a disabled veteran means a person who has served in the Armed Forces of the United States and whose disability is of such a nature that the Federal Government has authorized payment for purchase or construction of Specially Adapted Housing as set forth in the United States Code, Title 38, Chapter 21, Section 2101. The exemption applies to housing where Federal funds have been used to purchase or construct special adaptations to suit the veteran's disability.

The exemption also applies to housing that is specially adapted to suit the veteran's disability, and purchased entirely or in part by the proceeds of a sale, casualty loss reimbursement, or other transfer of a home for which the Federal Government had previously authorized payment for purchase or construction as Specially Adapted Housing.

However, the entire proceeds of the sale, casualty loss reimbursement, or other transfer of that housing shall be applied to the acquisition of subsequent specially adapted housing to the extent that the proceeds equal the purchase price of the subsequently acquired housing.

For purposes of this Section, "unmarried surviving spouse" means the surviving spouse of the veteran at any time after the death of the veteran during which such surviving spouse is not married.

This exemption must be reestablished on an annual basis by certification from the Illinois Department of Veterans' Affairs to the Department, which shall forward a copy of the certification to local assessing officials.

(Source: P.A. 91-401, eff. 1-1-00.)

State (IDVA)

Preference for Employment in the Office of the Governor of Illinois

Eligible survivors and dependents may receive helpful advantage in employment with the Office of the Governor of the State of Illinois (the state's largest employer). Such advantage shall consist of 10 points added to scores in examination for civil service employment.

Who May Be Eligible

- * Unmarried spouses of deceased veterans who suffered a war service-connected death.
- * Unmarried spouses of veterans with a war service- connected disability that prevents the veteran from qualifying for civil service employment.
- * One parent of an unmarried veteran who suffered a war service-connected disability which prevents him/her from qualifying for civil service employment. The first parent to receive a civil service appointment shall be the parent entitled to the preference.

Where to Apply

Apply at the personnel office of the Office of the Governor of Illinois.

SUMMARY

There are many advantages available to the dependents of veterans and to their survivors. These advantages cover a wide variety benefits of ranging from health care to compensation or pension payments to preference in employment for State and Federal jobs. However just as with most other veterans' benefits, you must be an educated consumer. There is little or no outreach by Government Agencies to veterans, dependents and survivors. In the end it is up to the individual to learn of and apply for the rights and benefits given by a grateful nation. If you think you or your dependents are or may become eligible for any of the benefits in this Chapter apply for them.

It is always a good idea to insure that dependents are made aware of the benefits offered prior to the death of a veteran and that the information necessary for application are kept in a safe place that is readily accessible by the survivors. We recommend keeping a copy of this book,(or another book on veterans benefits), military discharge papers, proof of marriage, divorce decrees, birth certificates, medicare information, social security information (including award letters), and any other necessary information in one central fireproof location. So that the survivors may easily access the information necessary for applying VA and other survivor benefits.

Also remember too, that if a deceased veteran was not eligible for benefits because of a "bad paper" discharge, a survivor or dependent may apply, on behalf of the deceased veteran for an upgraded discharge. If the discharge upgrade is approved eligibility for benefits may be established.

CHAPTER 9

EDUCATIONAL BENEFITS

INTRODUCTION

One of the greatest benefits of serving honorably in the U. S. Armed Forces are the educational benefits available to former servicemembers. Since WWII veterans have received educational benefits through both the State and Federal governments. These benefits range from monthly subsistence to tuition payments. The U. S. Department of Veterans Affairs (VA) provides educational benefits under the **Montgomery G.I. Bill, Vocational Rehabilitation** (for service-connected veterans) and the **Post Vietnam Era Veterans' Educational Assistance Program**. The State of Illinois also provides educational benefits through, The **Illinois Veterans Grant, Illinois National Guard Scholarship** and for qualified dependents the **MIA/POW Scholarship, Educational Opportunities for Children** and **Honorary Scholarships**.

This chapter provides a general description of educational and training benefits available at both the State and Federal level. It includes information to help veterans understand how to receive payments under these programs. Also included are web sites so that those with access to a computer may use the VA's online services to apply for educational benefits and verify enrollment. Going on line to the VA's web site is a great way to keep up to date on all veteran benefits. The web site for the education home page is <http://www.gibill.va.gov/education/benefits.htm> this site has all the U.S. Department Veteran Affairs educational benefits and the latest news on educational benefits. The VA's web site home page is located at <http://www.va.gov/> this site is the VA gateway to all it's benefits.

The information in this chapter may help veterans in making a decision to seek training or to enter an academic institution. Read it carefully to understand the full range of benefits available.

V. A. FEDERAL BENEFITS

The Montgomery GI Bill (MGIB)

Description of Benefit:

The MGIB may provide up to 36 months of education benefits to eligible veterans for a college degree, vocational/technical training, correspondence courses, apprenticeship/on the job training or even flight training. There is a lot more to the MGIB than just the monthly subsistence allowance. There is tutorial assistance, reimbursement for some licensing and certification tests, and more.

Eligibility:

A veteran may be eligible if honorably discharged. Anything less than an honorable discharge is an automatic bar to this benefit. The following are considered as honorable discharges.

- ✓ Convenience of the Government;
- ✓ Disability
- ✓ Hardship

- ✓ Disability that pre existed service
- ✓ A medical condition that is not considered a disability but that interfered with the performance of military duties.
- ✓ Reduction in Force.

In addition to an honorable discharger or equivalent the veteran must have either a High School Diploma, GED or 12 hours of college credit. Finally a veteran must meet one of the criteria categories below:

CATEGORY I

- ▶ Entered active duty for the first time after June 30, 1985.
- ▶ Had military pay reduced by \$100 a month for first 12 months.
- ▶ Must have completed the first term of obligated service.

CATEGORY II

- ▶ Entered active duty before January 1, 1977
- ▶ Served at least 1 day between 10/19/84 and 6/30/85, and stayed on active duty through 6/30/88,
(or 6/30/87 entered Reserves within 1 year of leaving active duty and served 4 years)
- ▶ Or 12/31/89, had entitlement left from Vietnam Era GI Bill

CATEGORY III

- ▶ Not eligible for MGIB under Category I or II
- ▶ On active duty on 9/30/90 AND separated involuntarily after 2/2/91,
- ▶ OR involuntarily separated on or after 11/30/93,
- ▶ OR voluntarily separated under either the Voluntary Separation Incentive (VSI) or Special Separation Benefit (SSB) program
- ▶ Before separation, you had military pay reduced by \$1200

CATEGORY IV

- ▶ On active duty on 10/9/96 and had VEAP funds remaining on that date and elected MGIB by 10/9/97
- ▶ OR entered full-time National Guard duty between 7/1/85 and 11/28/89 AND elected MGIB during the period 10/9/96 through 7/8/97
- ▶ Had military pay reduced by \$100 a month for 12 months or made a \$1200 lump-sum contribution

Once declared eligible for the MGIB the veteran will generally receive a monthly subsistence allowance. The amount depends upon the type of education being received and the length and type

of service. Those who served on active duty for full enlistment will receive more than a national guard member or reservist will under the Montgomery GI Bill - Selected Reserve (MGIB-SR).

Application

Apply by filling out [VA Form 22-1990](#), **Application for Education Benefits**. Application may be made on line at <http://vabenefits.vba.va.gov/vonapp/main.asp> this is an easily accessible site that walks the veteran through the application process. A new user must sign up to complete an application. There are 3 types of applications on this site a veteran may use it to apply for compensation in addition educational benefits. An eligible dependent may also use it to apply for educational benefits.

Vietnam Era G.I. Bill and VEAP Conversions

Montgomery G.I. Bill benefits are also available to those individuals who had remaining entitlement under the Vietnam Era G.I. Bill on December 31, 1989. The veteran must have served on active duty between October 19, 1984 and July 1, 1985. The veteran must have continued to serve on active duty to July 1, 1987, or to July 1, 1988, followed by four years in the Selected Reserve. A veteran who converts from the Vietnam Era G.I. Bill must have met the requirements for a high school diploma or equivalency certificate before December 31, 1989. Completion of 12 credit hours toward a college degree meets the requirement. Veterans who were eligible for post-Vietnam Era Veterans' Educational Assistance Program (VEAP) may elect to receive benefits under the Montgomery Bill and apply for a refund of the contributions to VEAP.

Licensing and Certification test reimbursement:

Veterans may receive reimbursement for licensing and certification tests after March 1, 2000. The tests must be approved for the G.I. Bill. The VA pays only for the cost of the test no other fees are paid, such as fees specifically for the license or certification.

Eligibility

Must be eligible for the Active Duty MGIB or Dependents Educational Assistance (commonly called Chapter 35) or VEAP. This program does not include Reservists or National Guard members. However, many members of the Guard and Reserve are or have been made eligible for the MGIB (active duty) because of their being called up for active service under Title 10 U.S.C. and meet the following requirements.

- ▶ Have no active duty prior to 7/1/85
- ▶ Have been called to active duty under Title 10 U. S. Code after 7/1/85 (Title 10 is the law that governs the Armed Forces whereas U.S.C. 32 governs the National Guard.)
- ▶ Have served a minimum of 24 months of continuous

active duty

To apply just complete **DD Form 2366 Election to Participate in the MGIB Active Duty Program** and Pay \$1200.00 to **Defense Finance and Accounting Service (DFAS)** to enroll in the program lastly the veteran must have Honorable service for the period of active duty.

Montgomery GI Bill - Selected Reserve (MGIB - SR)

Benefit Description

Generally, eligible veterans may receive up to 36 months of education benefits. MGIB-SR is for members of the Selected Reserve, this includes members of the active Reserves of all services or the or the National Guard. The program may be used for degree programs, certificate or correspondence courses, cooperative training, independent study programs, apprenticeship/on-the-job training, and vocational flight training programs just like the MGIB for those who served on active duty. It also includes remedial, refresher and deficiency training are available under certain circumstances.

Eligibility

To qualify, the guard or reserve member must meet the following requirements:

- ▶ Have a six-year obligation to serve in the reserves or national guard enlisted after June 30, 1985. If an officer, must have agreed to serve six years in addition to the original obligation. For some types of training, it is necessary to have a six-year commitment that begins after September 30, 1990.
- ▶ Complete initial active duty for training (IADT).
- ▶ Meet the requirement to receive a high school diploma or equivalency certificate before completing IADT. (note that unlike the active duty MGIB the veteran cannot use 12 college credits as an equivalent.)
- ▶ Remain in good standing while serving in an active Selected Reserve unit.
- ▶ If the veteran's Reserve or National Guard unit is deactivated during the period October 1, 1991, through September 30, 1995, or was involuntarily separated (e.g., reduction in force) from Reserve or National Guard service during this same period, the veteran retains eligibility for MGIB - SR benefits for the full 14 year eligibility period.
- ▶ Eligibility is also retained if the veteran was discharged for a disability.
- ▶ Eligibility period may be extended if the veteran was ordered to active duty, be sure to check it the activation made the veteran eligible for the Active

Duty MGIB.

How to Apply

Application is a two step process. The first step is to obtain a **DD Form 2384-1, Notice of Basic Eligibility**, from the veteran's unit. The veteran's unit is suppose to code the eligibility status into the Department of Defense personnel system so that VA may verify eligibility. Then complete a **VA Form 22-1990, Application for Education Benefits** and send it to the Chicago VA Regional Office at:

2122 West Taylor Street,
Chicago, Illinois 60680,

If of course the veteran lives in Illinois otherwise send it to the state where he/she is living. If the veteran has already started training or school have him/her take the 1990 and a VA Form 22-1999, Enrollment Certification the school or employer and have them complete it then, and send all the forms to VA.

Veterans Educational Assistance Program (VEAP)

Generally participation in VEAP ended with the MGIB. Veterans who participated in VEAP may still be eligible for benefits provided the following requirements are met:

- ☞ Completed first period of service.
- Discharged under conditions other than dishonorable.
- ☞ First entered active duty after December 31, 1976 and before July 1, 1985.
- Contributed \$25 to \$2,700 before April 1, 1987.

If the veteran is still on active duty and has a VEAP account there must be at least 3 months of contributions available to use the VEAP benefits.

Application for VEAP:

To apply for educational benefits complete a VA Form 1990. The form may be down loaded from <http://www.vba.va.gov/pubs/forms/22-1990.pdf>. The form may be requested by calling the VA at 1 (800) 827 1000. This is a menu driven system that gives information on all available VA benefits and if needed access to a Veteran Benefits Counselor. Veterans have 10 years from the date of separation to use this benefit.

Veterans Educational Assistance

(38 U.S.C. CH 34)

The Veterans' Educational Assistance program has all but ended. Those veterans who have had a discharge upgrade are still eligible for the program for ten years from the date of the upgrade. Generally this program was for those veterans who served from January 31, 1955 to December 31, 1976. Veterans who were eligible for this program had ten years to complete their education using this benefit.

Vocational Rehabilitation

This benefit was discussed in Book 1 of the Legal Rights of Illinois Veterans, in Chapter 7 “**Benefits for Disabled Veterans**” so we will not go in depth in this book. However, Vocational Rehabilitation, commonly referred to as Chapter 31, provides veterans who have a service-connected disability, with a wide range of services designed to help the individual with vocational or academic training:

A veteran is eligible for Vocational Rehabilitation, Chapter 31 if at least one of the following conditions are met:

- * A service-connected disability and are receiving at least 20% disability rating or would be but for receipt of military retirement pay. Veterans with 10% disability rating may be eligible if they have a serious employment disability.
- * Was honorably discharged for service-connected condition or are home awaiting orders for such a separation or are hospitalized awaiting separation for a service-connected disability.
- * Has a serious employment impairment as the result of a service-connected disability.
- * Those veterans with less than honorable discharges may be qualify if they have a service connected disability and are approved by the VA. (See chapter one, Exceptions and Limitations)

Rehabilitation Program Period

- * Veterans must complete a rehabilitation program 12 years from the date of the veteran's discharge or release from active duty.
- * This period may be extended if a medical condition prevents the individual from training or if the veteran has a serious employment disability.
- * Disabled veterans may receive services until they have reached their rehabilitation goal, generally up to 48 months.

- * V. A. may provide counseling, job placement and post-employment services for up to 18 additional months.

Rehabilitation Program Costs

- * While in training and for two months after completing training veterans may receive a subsistence allowance besides their disability compensation or retirement pay.
- * V. A. may pay cost of tuition and required fees, books, supplies and equipment.
- * V. A. may also pay for special support, such as tutorial assistance, prosthetic, lip-reading training and signing for the deaf.
- * Service members cannot receive subsistence allowance until they leave active duty.

Disabled veterans will be given an vocational counseling prior to having an educational objective approved. for eligibility. A veteran may receive employment assistance, and self-employment assistance after completion of the educational objective.

VRB-Tip: If eligibility is established for more than one educational benefit, only one may be used. A VA counselor will discuss options and help to make the decision regarding which benefits are best suited however, the choice is the veterans!

Educational Advance Payment

On occasion veterans may require advance payment of educational benefits in order to pay tuition, housing etc. such payment may be authorized if the following conditions are met:

- * Individuals receiving an advance payment must have the institution that he/she is attending verify enrollment.
- * The educational institution must, “Verify delivery of the advance payment check to the veteran.” Subsequent verifications are done by the veteran.

If a veterans wishes an advance payment all that need be done is to tell the certifying official at the institution to check the advance pay box on the VA certification form. The veteran will receive the first months pay in advance plus a partial month if the semester started as an example on the 15th of the month. As an example if a semester starts on January 15 advance pay will be given for the period January 15 through the month of February. The veteran would receive the next check for education on April 1st. Remember the VA pays one month behind (i.e., February is paid on March 1st).

Tutorial Assistance

Veterans may be eligible to receive a special allowance for individual tutoring if attending a post-secondary school at one-half time or more. The veteran must have the school certify that deficiency in a subject exists and that tutoring is necessary. Also, the school must certify the tutor's qualifications and the hours he/she tutors the veteran. Tutors cannot be the mother, father, child, or sibling of the veteran. If found eligible veteran will receive a maximum monthly payment of \$100. The maximum benefit is \$1,200.

Work-Study Program

Veterans may be eligible for an additional allowance under a work-study program. This program allows the veteran to do work for the VA or a Veteran related program in return for an hourly wage. Veterans must be enrolled in an academic institution or vocational training program at three-quarters or full-time rate. The maximum number of hours that veterans may work is 25 hours times the number of weeks in their enrollment period. Payments will be at the Federal minimum wage or the State minimum wage, whichever is greater. To apply, complete V. A. Form 20-8681, Applications for Work-Study Allowance. The form may be downloaded from <http://www.vba.va.gov/pubs/forms/22-8691.pdf> just download it and send it to nearest V. A. regional office. Or one may be obtained from calling the VA at 1 (800) 827 1000.

VRB-Tip: If the veteran has an overpayment because of receiving VA benefits, he/she can probably participate in work-study to reduce or eliminate the overpayment.

STATE BENEFITS (IDVA)

The State of Illinois supports educational assistance programs for Veterans and Illinois National Guard members. Support is in the form of two grant programs, the [Illinois Veterans' Grant](#) (IVG) and the [Illinois National Guard Grant Program](#) (ING) for members of the National Guard. Both programs are designed to assist veterans and current National Guard members who are attending or who wish to attend state-controlled colleges, universities and community colleges. It is administered by the [Illinois Student Assistance Commission](#) (ISAC)

Description of Benefit

IVG

Four calendar years of full-time enrollment, including summer terms, at any state supported college, university, junior college/community college. Entitlement to free enrollment into any extension course offered by state supported colleges without paying tuition or fees. No payment of matriculation or application fees, tuition, activities fees graduation fees or other fees. This does not apply to building fees or fees for supplies and materials. A qualified veteran who paid any of the above fees may upon application within two months following the school term be reimbursed such fees.

It should be noted that the law makes it very clear that the veterans grant is an, “entitlement which the State-controlled college or university or community college in which the holder is enrolled shall honor without any condition other than the holder’s maintenance of minimum grade levels and a satisfactory student loan repayment record pursuant to subsection (c) of Section 20.”¹² Any college who demands payment from a qualified veteran should be informed of this by the veteran. The veteran should report the incident directly to the Illinois Student Assistance Commission, (ISAC). ISAC Client Services Representatives are available from 8 a.m. to 5 p.m. Monday through Friday. Bilingual (English/Spanish) representatives are also available during this time. The telephone number is 800-899-ISAC (4722). Hearing-impaired, may contact ISAC through the Illinois Relay Center at 800-526-0857 (voice) or 800-526-0844 (TDD). Veterans may find the web site useful not only for the veterans grant but also for other types of student aid offered. The site is address for the veterans grant site is <http://www.collegezone.com/informationzone/16.htm>.

Eligibility Requirements for the Illinois Veterans Scholarship

There have been some changes in the last couple of years on eligibility requirements. Veterans interested in the looking at the law may access it through the

The Veteran grant is for any person who was a resident of Illinois for at least six months prior to entering the service. The veteran must have returned to Illinois within six months of separation from the service. If a veteran is married to a service member that person has six months to return to Illinois after the separation of the spouse.

Service requirements:

- ⇒ Must have an honorable discharge.
- ⇒ Served at least one year or
- ⇒ “has served in the armed forces of the United States for less than one year in a time of hostilities in a foreign country, and who would be qualified for a grant under this Section if he had been discharged from such service shall be eligible to receive a Veteran Grant under this section.”

Who is not eligible:

- ⇒ Veterans who receive “a discharge from the armed forces of the United States under dishonorable conditions,”¹³ or

¹²110ILCS 947/40

¹³110 ILCS 947/40

- ⇒ “to any veteran who service with the armed forces was for less than one year unless he received an honorable discharge from such service for medical reasons directly connected with such service except for those veterans discharged prior to August 11, 1967 whose service may be for less than one year, and except for those veterans (i) who serve in the armed forces of the United States for less than one year in a time of hostilities in a foreign country and (ii) who receive an honorable discharge.”¹⁴

Illinois National Guard Grant Program

Members of the Illinois National Guard who have served for one year and are enlisted persons or company grade officers including Warrant officers, First and Second Lieutenants and Captains are eligible for the grant program for as long as they are members of the National Guard. The grant is the same as for veterans except that members of the Guard may only use the entitlement as long as they are active members of the Illinois National Guard. Should a guard member terminate his or her membership while attending school under this program the grant stops immediately. Even if the member is in the middle of a semester.

How to Apply for the Illinois Veteran Grant or National Guard grant programs.

- * Fill out IVS Form 3, "Application for Veterans' Grant"; requires submission of a DD 214 or its equivalent and proof of meeting residency requirements.
- * Current members of the Armed Forces must submit a statement from current commander indicating length of service and home of record upon entry into service, or an enlistment contract, CDD Form 4 or DD Form 1966.
- * Contact the financial aids at the state-controlled school you wish to attend or the Illinois Department of Veterans Affairs Service Officer in your area.

Office of Rehabilitation Services (ORS)

Another state benefit that may be helpful for disabled veterans is the services offered through the Illinois Office of Rehabilitation Services (ORS). The State of Illinois, Department of Human Services, Office of Rehabilitation Services offers several programs for disabled citizens. Veterans often do not make use of these programs because of their use of the VA for rehabilitation from their service connected disabilities however as citizens there are numerous programs available from the State of Illinois. If a veteran is disabled may qualify for training and other services offered by the VA's Vocational Rehabilitation program. The veteran should also check eligibility to use other state benefits such as those offered through the Illinois Office of Rehabilitation Services (ORS). Disabled veterans may be able to use both state and federal programs at the same time.

SUMMARY

Educational benefits are one of the most important benefits available to veterans who have served their country honorably. Education is the door to a better life. Statistically, those who have

¹⁴ ibid

a college education or a trade do much better than those who do not have an education or specialized training. The effective use of educational benefits can as no other benefit bring to the veteran and his or her family financial stability and wonderful career opportunities. You these benefits effectively for a great future.

CHAPTER 10
HOUSING AND SMALL BUSINESS BENEFITS

Housing Benefits

Introduction

The VA Loan Guarantee program has helped thousands of veterans buy their first house. Typically when veterans think of a VA Loan Guarantee they usually think of buying a home. However the VA Loan Guarantee Program may be used for many things. Veterans may use the guarantee to buy a home, condominium, mobile home or manufactured home. A loan guarantee may also be used to build a home, repair, alter or improve a home, refinance a mortgage and even install solar heating or cooling or other such projects.

Description of Benefit

The VA guarantees or insures a portion of a loan made by a participating lender to an eligible veteran for the purpose of buying, building improving a home or refinancing an existing mortgage. The advantage of the a VA Loan Guarantee is that it increases the veteran's "borrowing power." Since the VA is guaranteeing part of the loan, there is less risk to the lender.

Eligibility Requirements For A VA Loan Guarantee

General Eligibility Requirements

As with all VA benefits veterans must meet certain service requirements to be eligible for this benefit. Veterans who served during the following eras must meet specific criteria to the era. Each is described below.

Wartime

- WWII 09/16/40 to 07/25/47
- Korean 06/27/50 to 01/31/55
- Vietnam 08/05/64 to 05/07/75

Veterans with other than honorable discharges will require further adjudication by the VA to determine if the veterans service was under other than dishonorable conditions. Veterans must have at least 90 days on active duty and been discharged under other than dishonorable conditions. Only those veterans who where discharged for a service connected disability may have less than 90 days.

Peacetime Eras

If a veteran served during one of the following peacetime eras there must be a total of at least 181 days of continuous active duty. The veteran must have been discharged under other than dishonorable conditions.

- 07/26/47 to 06/26/50
- 02/01/55 to 08/04/64

- 05/08/75 to 09/07/80 (enlisted)
- 05/08/75 to 10/16/81 (officer)

If the veteran has less than 181 days of service eligibility may still be established if the discharged was for a service-connected disability.

Veterans separated after 09/07/80 (enlisted) or 10/16/81 (officer) must have:

- Completed 24 months of continuous active duty or the full period but at least 181 days for which the veteran was activated and was been discharged under conditions other than dishonorable.

Or

- Completed at least 181 days of active duty and was given a hardship discharge or an early out, or have been determined to have a compensable service-connected disability.

Or

- A veteran may also be eligible if discharged due to an involuntary reduction in force or for certain medical conditions, or, in some instances for the convenience of the Government.

Gulf War

Those who served in the Gulf War, August 02 1990 to date yet to be determined must have Completed 24 months of continuous active duty or the full period for which activated, but at least 90 days and been discharged under conditions other than dishonorable. Or must have completed at least 90 days of active duty and been discharged under the specific authority of 10 U.S.C.1173 (hardship), or 10 U.S.C. 1173 (early out), or have been determined to have a compensable service-connected disability. Or have been discharged with less than 90 days of service for a service-connected disability. Veterans may also be eligible if they were released from active duty due to an involuntary reduction in force, certain medical conditions, or, in some instances, for the convenience of the Government.

Reserves or National Guard

Members of the Reserves or National Guard are eligible once they have completed 6 years

of active Guard/Reserve service, i.e. attended drills and annual training, even if they have been discharged. Provided the discharge was honorable, this includes being retired or being transfused to the Standby Reserve. Veterans who completed less than 6 years may be eligible if discharged for a service- connected disability. Eligibility for reservists expires September 30, 2009.

Others Eligibles

Veterans who served as Public Health Service officers, cadets at the United States Military, Air Force, or Coast Guard Academy, midshipmen at the United States Naval Academy, officers of National Oceanic & Atmospheric Administration, merchant seaman may also be eligible for a loan guarantee.

Other Eligibility Requirements

Must have a good credit rating.

Must have income adequate to support the mortgage payments.

Must live in the home or on the property purchased.

OBTAINING A VA LOAN GUARANTEE

Veterans should be careful when buying a home. Unlike most other veterans' benefits a VA Loan Guarantee is a business contract with not only the VA but also with a private lending agency. As far as today's lender is concerned, it's strictly business. Defaults are viewed as a breach of contract and lenders are very good at processing foreclosures.

There are several "rules of thumb" about how much mortgage payments should be relative to income and expenses. Veterans should be frank with real estate agents and lending agents when buying a home, most are knowledgeable about what people can afford. Remember once the contract is signed it is binding and if payments cannot be made, the loan will go into default and very possibly the home into foreclosure. If this happens credit can be ruined for years, so be careful. Again if you have a computer or access to one then the VA web site is a great place to go for help about what to do should you default on your mortgage. DO NOT WAIT FOR THINGS TO GET OUT OF HAND. THE MORTGAGE COMPANY AND THE VA WILL NOT FORGET WHO OWES THE MONEY. SO IF YOU GET INTO TROUBLE ACT NOW BEFORE IT IS TOO LATE TO SAVE YOUR CREDIT AND YOUR HOME. GO TO <http://www.homeloans.va.gov/paytrbl.htm> or call the VA at 1(800) 827-1000 follow the telephone prompts. There are counselors available to assist.

How to Apply

The First Step - Get a "Certificate of Eligibility"

The first step in getting a VA Loan Guarantee is to get a "certificate of eligibility." Getting a Certificate of Eligibility is fairly easy. The first step is to complete the 26-1880 and send it to the Loan Guarantee Center with proof of qualifying service, in the case of Illinois veterans the address

is:

Los Angeles Eligibility Center
P.O. Box 240097
Los Angeles, CA 90024
Toll free number: 1-888-487-1970
E-mail: vavbalan/lgyeli@vba.va.gov
LA Website: www.vahomes.org/la/home.htm

Before sending the 26-1880 to the VA be sure to include a copy of the most recent discharge or separation papers. (DD 214) The separation papers must show the dates of service and type of discharge. If the veteran has previously used the VA Loan Guarantee the separation papers may not be necessary. However, it is best to provide the discharge to insure speedy processing. Never SUBMIT AN ORIGINAL DOCUMENT.

Those veterans who are seeking to restore a previously used guarantee, should include any evidence of payment in full of the prior loan. In most cases the VA will receive a notification that a loan has been paid, but this doesn't always happen.

Reserves and National Guard

If the veteran served in the Guard or Reserves documentation must be provided that establishes a minimum of 6 years with points earned for weekend drills or active duty for training and/or received an honorable discharge. Since there is no uniform document similar to the DD 214 for proof of service different forms may be accepted:

National Guard members who are currently serving or who have been discharged may use a NGB Form 22.

Those who served in the reserves may use variety of forms. Forms that verify an honorable discharge and or that document retirement points etc. are necessary. Unless there is qualifying active duty then the DD 214 will due.

After all is said and done the VA will determine eligibility and if qualified, will issue a certificate of eligibility.

The Second Step - Find a House

Find a house. The best way to do this is to use a licensed real estate agent to find the right home. Real estate agents can usually refer the veteran to a lender in the area who accepts VA Loan Guarantees. When considering a home it is a good idea to have the home inspected by a licensed professional.

The Third Step - Find a Mortgage Lender

The real estate agent can help with this step as can the VA. The VA has a web site, <http://www.vba-roanoke.com/rlc/VA-E-Lenders/> that lists lenders in the veteran's area who make VA Loans.

How Much will the VA Guarantee:

Entitlement, means the amount of the guarantee benefits available to an eligible veteran. It is important to check with the VA for the most current guarantee rates prior to looking for a home. This information is available on line at <http://www.homeloans.va.gov/lgyinfo.htm>. This site contains a number of pamphlets that will be helpful.

A veteran who previously obtained a VA Loan may use remaining entitlement for any approved purpose. An exception is that veterans who use part of their entitlement to buy a mobile home must dispose of that home prior to getting another VA Loan Guarantee to buy a second mobile home. Finally, veterans who do not have any entitlement left may still refinance an existing loan with a new VA Loan Guarantee at a lower interest rate. Provided they are relieved of responsibility for the last loan guaranteed by the VA.

The amount of guarantee depends upon the amount of the total loan and the type of property bought, refinanced or improved.

Loan amount	Percent guaranteed	Maximum amount guaranteed
up to \$45,000	50%	\$22,500
\$45,000 to \$56,250	40-50%	\$22,500
\$56,251 to \$144,000	40%	\$36,000
\$144,000 or more	25%	\$60,000
manufactured home or lot	40%	\$20,000

The VA requires payment in cash, on all home loan closings, including title search and recording, insurance premiums, taxes and a one percent origination fee or other costs as required by the lender. Loans made after March 1, 1988 must pay a fee to the VA of ½ of one percent of the balance of the loan.

Type of Loan	Veterans Percent of Loan	Reservists Percent of Loan
Loans with a down payment of less than 5% and refinancing and home improvement loans	2.0%	2.75%
Purchase or construction loans with down payments of at least 5% but less than 10%	1.5%	2.25%
Purchase or construction loans with down payments of 10 percent or more.	1.25%	2.0%
Manufactured home loans	1.0%	1.0%
Interest rate reduction loans	0.5%	0.5%
Assumption of VA-Guaranteed loans	0.5%	0.5%
Second or subsequent use without a down payment	3.0%	3.0%

PITFALLS TO WATCH FOR WITH A VA LOAN GUARANTEE

Release From Liability

Veterans should get a release from liability from the VA after selling a VA Loan Guaranteed Home. Personal liability on the part of the veteran continues unless the related loan is paid in full or the veteran receives release from personal liability from the lender. Veterans should insist that the contract for sale includes a provision that the sale is contingent upon both parties, the veteran and the purchaser, filing the appropriate VA forms to release the selling veteran from liability, and that the sale is contingent upon the VA approving such release.

Foreclosure

As was mentioned earlier, if you are late in your mortgage payments, you may very well lose your home. If you are unfortunate enough to get caught in this bind, here are a few things you should know.

- * A mortgage company may not foreclose unless you are at least three months late with your payments.
- * The mortgage company is obligated to accept partial payments under certain circumstances and must give the VA 30 days advance notice before foreclosing.

- * Mortgage companies are supposed to extend all reasonable forbearance including consideration of temporary suspension of payments and extension of the loan (in actual practice, such leniency is rare).
- * VA regulations require that it consider "assignment" (taking back the loan) within 30 days of receiving notice of an impending default. This means that the VA will pay off the mortgage company. The veteran then will make mortgage payments directly to the VA.
- * A procedure known as refunding may also be used by the VA. Refunding lengthens the period of the mortgage.
- * If foreclosure appears eminent, discuss the situation with a lawyer. If you cannot afford one, seek free legal assistance through one of the many legal aid organizations, lists of local organizations are usually available from the local BAR association. Veterans should also consider taking refuge in United States Code Chapter 13 (Protection From Creditors) or Chapter 11 (Bankruptcy) to save the home from foreclosure. Veterans should make sure that both the mortgage company and the VA are included in the list of creditors.

The VA Loan Guarantee site on line has a number of pamphlets and booklets available to veterans seeking to the Loan Guarantee Program. Most are available on line however those without on line access may call the VA Hotline 1 (800) 827 1000 and request them. The following pamphlets may be helpful in the loan process and should problem arise:

Business Loans and Resources

Many veterans have dreamed of owning a small business. But for many the dream ended because they just didn't know where to start. Or couldn't get the loan needed to start the business. Other veterans have actually started a small business but because of an obligation to the National Guard or Reserve lost it because they were called to active duty. Some veterans have had to suffer losses because as small business owners they have had to watch as key employees have left for active duty. The question of each is where can I go to get some help? Are there programs for a small business owner who has lost a key employee to active duty or "I'm being called up what can I do?

The answer to all of these questions may be found at the Small Business Administration. The SBA can help in the every aspect of starting a business. There are two Veterans Business Development officers in Illinois.

Additionally there are many sites online that will prove very helpful to anyone who wishes to start a small business or who has a small business and wants to expand it.

The Veterans Entrepreneurship and Small Business Development Act of 1999

This act created several advantages for veterans who wish to start or expand a business. Generally there are two categories of veterans 1) service disabled i.e., service-connected veterans, there is no set degree of disability for this provision and 2) veterans. Both categories require that the business be at least 51% owned by a veteran and that the daily business operations be controlled by one or more or in the case of a severely disabled veteran the veterans spouse or caregiver.

The act also established the Office of Veterans Business Development (OVBD) this office is responsible for the “formulation, execution, and promotion of policies and programs of the SBA that provide assistance to small businesses owned and controlled by veterans and service-disabled veterans (veteran small businesses).

It also established the National Veterans Business Development Corporation the purpose of the corporation is to “improve access to technical assistance regarding entrepreneurship for veterans” and to work with and organize public and private resources and to assist veterans and service connected veterans with the starting and or expanding small businesses.

They do this in part by using the expertise of the Senior Corps of Retired Executives, (SCORE) to provide advise and council to those veterans who wish to start or expand a business. This assistance may be in the form counseling, referral or loans. The SBA has several loan programs.

Lending Programs

[7\(a\) Loan Guaranty Program](#) - Provides guaranteed loans to qualified small businesses that are

Steve Konkle Illinois District Office 500 W. Madison Street, Room 1250 Chicago, IL 60661 (312) 886-4208 (312) 886-5688 and	Jim Ryan SBA Illini Financial Center 511 West Capitol, Suite 302 Springfield, IL 62704 (217) 492-4416 ext. 109 (217) 492-4867.
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unable to secure financing through regular lending agencies. The program operates like the VA Home Loan Guarantee program. The SBA guarantees a business loan a private agency makes the loan. As with the Home Loan Guarantee many lenders are aware of the SBA’s guarantee program. Those interested in this program should contact a lender for information and assistance in the loan

application process. The SBA does however offer information, management counseling and training services. Check the SBA web site <http://www.sba.gov/> for further information. Or you can write or call the SBA at:

SBA OFFICES

Chicago District Office:
500 W. Madison Street, Suite 1250
Chicago, IL 60651
Phone (312) 353-4528
Fax (312) 886-5688

Springfield Branch Office:
511 W. Capitol, Suite 302,
Springfield, Illinois 62704
Phone (217) 492-4416
Fax: (217) 492-4867

[Certified Development Company \(504\) Loan Program](#) - A Certified Development Company, (CDC) is a nonprofit corporation whose purpose is to contribute to the economic development of its community. CDCs, the SBA and private-sector lenders to provide financing to small businesses. This program provides long term loans to qualified business for the purchase or renovation of fixed assets.

[Prequalification Loan Program](#) - The Pre-qualification Pilot Loan Program uses agents to assist borrowers in developing loan packages and in securing loans. This program works like the VA Loan Guarantee in that the lender or other agent assists the business with the preparation of the loan application. Once the application is complete it is submitted to the SBA for approval. If approved the SBA issues a letter stating their intent to guarantee the loan. The lender then makes the loan.

[LowDoc](#) - This loan is guarantied by the SBA to start or grow a business. Business may not have more that 100 people working for it nor may sales be more than 5 million dollars for the preceding 3 years. LowDoc is a speeded up loan processing procedure the guarantee is decided usually about 36 hours from time of receipt. Generally the lender and business completes the front of the one page application and the lender completes the back. The application is then forwarded to the SBA through the SBA *LowDoc* program. As with most loans there is a requirement for collateral. The borrower must put up as collateral either business or personal assets. However most loans are not declined if collateral is the only negative factor. The loan may be for 5 but no more than 10 years unless the loan is for fixed assets then the loan may be for up to 25 years. Interest is set by the SBA.

[SBA Export Express](#) - Combines the SBA's small business lending assistance with its technical assistance programs to help small businesses that have traditionally had difficulty in obtaining adequate export financing. The pilot program is available throughout the country and is expected to run through September 30, 2005.

[Microloan Program](#) - Provides small loans to start-up, newly established or small business. The SBA makes funds available to nonprofit community based lenders. These nonprofit lenders act as intermediaries who actually make the loans up to a maximum of \$35,000. Most loans are for about \$10,500. Applications are submitted to the local intermediary and all credit decisions are made by the intermediary. There are two intermediary groups that cover Illinois they are:

Accion Chicago, Inc.
3245 W. 26th

Chicago, IL 60623

President: F. Leroy Pacheco

Microloan Contact: Jonathan Brereton

E-mail: lpacheco@accionchicago.org

Phone: 773-376-9004

Fax: 773-376-9048

**Service Area: Cook County, Lake,
DeKalb,(including parts of Chicago),
McHenry, Kane Dupage, Kendall,
Grundy, Kankanee, Will,**

Justine Petersen Housing & Reinvestment Corp
5031 Northrup Avenue

St. Louis, MO 63110

Robert Boyle

Sheri Fannigan-Vasquez

sflanigan@justinepetersen.org

314-664-5051 ext. 117

314-644-5364

**Service Area: Clinton, Jersey, Madison
St. Clair**

SUMMARY

The VA Loan Guarantee program is one of the most valuable benefits available to veterans. Basically, this enables a veteran to buy a home without the substantial down payment. Veterans who decide to sell their home should remember to get a release of liability upon the sale of the home. If it appears that there will be a change in income that may make it difficult to pay the mortgage, veterans should consider selling the home. If a default on the mortgage occurs, get help and counseling from the VA, the lending institution, or a lawyer, the sooner this is done the better the chances of saving the home.

The benefits afforded veterans through the SBA offer veterans a variety of special programs that are geared to assist veterans in either starting or growing a small business. The SBA offers a number of loan programs and a variety of assistance to those interested in starting their own small business.